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ROYAL COMMISSION ON TRANSPORTATION

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,  
FRIDAY,  
FEBRUARY 10, 1950

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D.	-	CHAIRMAN
HAROLD ADAMS INNIS	- - -	COMMISSIONER
HENRY FORBES ANGUS	- - -	COMMISSIONER

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G. R. Hunter  
Secretary

P. L. Belcourt  
Asst. Secretary

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Hugh E. O'Donnell, K.C.	}	Canadian National Railways
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C.F.H. Carson, K.C.	}	Canadian Pacific Railway
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C.D. Shepard	)	Province of Manitoba
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J.J. Frawley, K.C.	)	Province of Alberta
F.D. Smith, K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade
J. Paul Barry		
C.W. Brazier	)	Province of New Brunswick
F.R. Hume	}	Province of British Columbia
M.L. Rapoport		
	)	Canadian Automotive Trans- portation Association

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Ottawa, Ontario  
Friday, February 10, 1950.

MORNING SESSION

THE CHAIRMAN: Very well, Mr. Brazier.

MR. BRAZIER: Mr. Chairman, at the conclusion yesterday, I had just completed my examination-in-chief and Mr. Brown is now available for cross examination.

MR. J. E. BROWN - RECALLED

CROSS EXAMINATION BY MR. EVANS:-

Q. I will try not to keep you too long, Mr. Brown, but there are some more or less general questions that I would like to discuss with you for a moment.

THE CHAIRMAN: Would you please speak up, Mr. Evans. I know it is not easy.

MR. EVANS: Q. May I suggest to you, Mr. Brown, that the cost of service principle involves the allocation of the full cost to each group of commodities or each commodity so far as that cost can be ascertained. I am not arguing whether you should make a study or whether you should approximate, but as a principle it is the allocation to a commodity or group of commodities of the cost of carrying that commodity.

A. That is all the operating costs, elements of the operating costs.

Q. Whatever we may discuss as to what constitutes cost (and I want to come to that later) I want to get principles here now: that as a principle the cost of service principle is the allocation to commodities or to groups of commodities of the costs of carrying those commodities so far as they can be ascertained, whether you use a formula or whether you



Friday, February 10, 1950

Mr. Chairman:

Very well, Mr. Chairman.

Mr. J. E. Brown - Recalled

I will try not to keep you too long.

I would like to discuss with you for a moment

Mr. Chairman: I suggest to you, Mr.

Chairman of the full committee to report

this or something so far as that goes, and

a lot of other things should be reported, but

principles of the situation for a summary on

some of the principles of the cost of

Mr. Chairman: I suggest to you, Mr.

Chairman: I suggest to you, Mr.

I suggest to you, Mr. Chairman: I suggest to you, Mr.

Chairman: I suggest to you, Mr. Chairman: I suggest to you, Mr.

Chairman: I suggest to you, Mr. Chairman: I suggest to you, Mr.

Chairman: I suggest to you, Mr. Chairman: I suggest to you, Mr.

Chairman: I suggest to you, Mr. Chairman: I suggest to you, Mr.

use a study.

A. Yes, but again I don't know whether we are using the word "cost" in the same sense.

Q. I let you reserve that because I want to come to that.

A. Right.

Q. Now then, the value of service principle on the other hand - - perhaps I should say before that, the costs which go to make up the costs which are to be applied under either principle consist of those costs which are variable and those costs which are not variable, whatever they may be?

A. That is true.

Q. And whether you say 100% are variable or whether you say 70% are variable, I want to differentiate in principle with you, that in the application of either principle the costs which are dealt with are those which are variable and those which are constant, whatever they may be.

A. Yes, with the reservation as to what is included in cost.

Q. I want you to reserve anything you like. We will come to the details of this later. Now then, on the value of service principle, and again without getting into a dispute as to the technical result of using particular words and purely as a matter of principle, the theory of the value of service principle is that each commodity or group of commodities will pay what we might call out-of-pocket costs or average variable costs as a sort of minimum, and each of the commodities or groups of commodities will contribute in varying degrees towards the other character of costs, the





constant costs, depending upon what the traffic will bear.

A. May I repeat what I think you are saying?

Q. Yes.

A. I think you are saying that each movement of traffic must bear all its variable costs and a portion of the constant costs; again, speaking just of operating costs, not considering any return on investment.

Q. Yes.

A. If that is what you are saying.

Q. Yes, a proportion, but the distinction I want to make for the moment as a matter of principle is that the proportion varies according to the principle of what the traffic will bear, rather than to allocate directly proportionate to the traffic those constant costs.

A. I believe that is the - -

Q. I don't want to get at cross purposes with you, I want to get a clear understanding of what we are talking about, and I want you to be perfectly free to check me if I am not putting it fairly, because I am trying to get down to principles with you and I am not going to quibble on language at the moment. When we get to examining these various definitions of these things, then we will perhaps be a little more technical.

A. Well, once again I think that you mean, and it is my understanding that you mean, that a particular movement must cover all its variable costs.

THE CHAIRMAN: Will you please repeat that?



A. I believe Mr. Evans means that a particular movement of traffic - -

Q. A particular movement?

A. Yes, any particular movement of traffic must cover all its variable costs and some portion of the constant costs of the business. In this case I am suggesting that these constant costs do not include any return on investment necessarily. I am not sure whether Mr. Evans and I are at cross purposes.

Q. Well, if you could get a definition which you would both agree as to what is meant by cost, what is meant by the cost of service principle, and what is meant by the value of service principle, of course then we would know where to go ahead from; but unless you agree in the premises it is pretty hard for us to follow.

A. Mr. Chairman, I make the distinction between cost - I break that off at operating costs, and I say anything above that is return on investment.

Q. Anything above operating costs - -

A. Anything above operating costs is return on investment. It may not be an adequate return, but at least I think it is a return.

MR. EVANS: But what I am concerned with, my lord and Mr. Brown, is to get the principle established. Now, what may be the amount of variable costs and what elements go to make up that cost, I am not dealing with for the moment. I am not going to avoid that, but I am going to come back to you on that. I want to get down to first principles. I want to get the prime difference between the two principles established





in the record according to your view. Now, I think it is pretty well accepted that the cost of service principle allocates all the costs to the traffic.

A. As a process.

THE CHAIRMAN: Are you agreed on what "all the costs" mean?

MR. EVANS: May I come to that when I come to deal with what constitutes costs, sir? I want to get the principles established and from there I hope to be able to deal with these various elements of cost and the terminology involved.

THE CHAIRMAN: You cannot establish the principle without being sure of your facts, because the facts precede the principle; that is, if you have one idea of what the facts are and what cost means, and Mr. Brown has another, you are going to shoot off in different directions. I am anxious to try to settle it now, so that from now on we will know you are speaking of the same thing, and when you question Mr. Brown he answers you.

MR. EVANS: My submission will be that until we get at one on what the principle involves, it is idle to examine the constituents.

THE CHAIRMAN: All right, get on to the principle, Mr. Evans, if you think that is the best way. What is the principle?

MR. EVANS: Q. Now having got what I understand is your agreement as to what the cost of service principle involves, I think you will agree that the value of service principle involves as a minimum the variable costs plus a varying contribution to the other



costs or the balance of costs,whatever they may be .

A. I will accept that for the time  
being.

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-

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-

(Page 14850 follows)





Q. And that the varying contribution is on the principle of what the traffic will bear? That is the popular expression?

A. Yes.

Q. Now, I want to establish that in your mind as the prime difference between the two principles. On the one hand the cost of service principle allocating all the cost to the traffic and on the other hand the value of service principle allocating as a minimum variable costs and allocating in proportion to what the traffic will bear varying amounts of the other costs, whatever they may be. Now then, in that sense the value of service principle may be open to popular misconception because of the use of the words "value of service" to describe the principle and I suggest that to you?

A. I would say yes, that is possible.

Q. And I suggest to you that possibly the reason for that misunderstanding or misconception, if I may put it that way, is that there is the tendency to overlook that the cost element looms quite large in the value of service principle. Would you agree with that?

A. I would say that is true.

Q. Now then, again without getting into the exact meaning of these terms, it follows, does it not, that if there has been over a period an increase in the proportion of costs which has been found to be variable with traffic, that the value of service principle will automatically take care of that if rates are made in accordance with the value of service principle?

A. Yes, I suppose that must follow.

Q. So that the first proposition I want to put to you is that we have between the two primarily a difference in principle in the way you deal with these costs above





average variable costs and that, therefore, when you are asked to choose between the two, you are really asked to choose between the principle applicable to the two, are you not?

A. Well, yes, I suppose that must follow, I would say.

Q. If the difference is one of principle and you are choosing you must choose that principle?

A. Yes, I would say so.

Q. Now then, if it is true that the average variable costs are increasing as time goes on -- and that seems to be the case, does it not?

A. If it appears to be.

Q. If that is true, then the application of the value of service principle will automatically, I suggest to you, reflect a closer approach to the allocation of all the costs?

A. Perhaps I should re-state that first answer instead of saying that the variable element appears to be increasing. I was asked whether I thought the variable element was increasing. I think perhaps the recognition that the variable element is greater than was thought is becoming more apparent.

THE CHAIRMAN: Now, are you coming to what is meant by the "variable element?"

MR. EVANS: I am going to come to that definition, sir. I am trying to develop these principles in a way that does not perhaps appeal to you, sir, but it is the only way I know at the moment to bring this thing from the principle to the specific. On the question as to whether average variable costs are increasing, I think that you may agree with this, that average variable costs do tend to increase and the capacity of the plant



becomes more and more utilized?

A. Oh, I would agree with that.

Q. That is really what I had in mind when I say that in these times of higher traffic volume there has been a tendency for the variable costs to increase?

A. Not in that sense. I am suggesting that possibly when the plant was originally built it was designed with a very large excess capacity with the expectation that that would be filled in. Ultimately the plant becomes reasonably adjusted to traffic and within a fairly wide range of levels of traffic there does not appear to be any marked change in the relative variability.

Q. Then, let me put this to you, that in the depression, when the traffic was at a low level, you would expect to find the variable costs a lower proportion of the total cost than you would during the war years when the traffic was high? That is all I want to establish.

A. Oh quite. I have never said there are no constant elements.

Q. I am not arguing that with you; I am merely saying that if there is a growth in the average variable costs, then that would automatically, if the value of service principle is applied, be taken care of in the application of the principle?

A. In the sense that if you have a constant element of, say, \$8,000,000 regardless of traffic then when your total operating costs are \$100,000,000, then in that situation your constant is 8 per cent of your total. Now, if through change in the level of traffic your total operating costs become \$200,000,000, then, of course, your constant is only 4 per cent because of the fact that you have a constant element.





Q. I follow you. Now then, it is of no consequence to me to argue that point with you but perhaps we can get on common ground here, that if the value of service principle is correctly applied, the average variable costs will be minimum and will be directly reflected in the rates. Am I clear with you on that?

A. Well, I would think that the pricing agency would have to do that.

Q. Now then, if you say that recent knowledge or study indicates that average variable costs are really higher than they were at first thought to have been, then what your quarrel would be with the value of service principle is that it has not been correctly applied; in other words, that the average variable costs have not been correctly reflected in the application of the value of service principle?

A. Well, there is only one other thing with respect to that that I might say. Since in a sense the railway is a public utility and therefore apparently must come under public inspection and examination a little more closely than other types of industry, even though the management may quite properly say, and in most cases do price a certain way, that is that there will be no price below, shall I say, out of pocket costs, the public are not always assured that those are the facts.

Q. All I am suggesting to you, Mr. Brown, is that you do not have to abandon the value of service principle to reflect in the rate structure the present knowledge as to the increased amount of costs which are variable?

A. Well, shall we say that I could well assume or well appreciate the fact that whoever is in charge of pricing, say, the traffic manager, must obviously take those facts into consideration in pricing.



Q. As a matter of principle you do not have to abandon the value of service principle. That is the point I am making with you. You do not have to abandon the value of service principle merely because you now find that your average variable costs are higher than you thought they were?

A. Well, the remaining objection, shall I say, to the value of service principle again is that it may be a subjective valuation.

Q. I did not put that question to you. I want you to answer the question as I put it because, after all, we will take some time if you do not, and I am not being rude with you. I just want to get it clear that quite apart from any other objection you may have to the value of service principle, you do not have to abandon the value of service principle merely because you find variable costs a larger proportion of the total costs than you had at first thought?

A. Well, perhaps I could answer it this way. If every one could be assured that it was priced so that no rates were below the variable costs, then we would achieve approximately the same result?

Q. Well on results, you see, we are on a different thing.

THE CHAIRMAN: I am sorry, but I cannot hear. You start off all right and then you always fade. If you please, this is very important that we should hear all of this and I wish you would make an attempt to speak to us here and not to Mr. Evans in a whisper. Would you repeat that please?

MR. EVANS: I was putting to him the proposition that the fact that variable costs are a greater proportion





of the total costs than he at first thought they might be, does not in itself call for an abandonment of the value of service principle because if they are in fact variable, the value of service principle takes care of it and Mr. Brown's answer was, I thought not quite a response to the question because he thought we might arrive at the same place. If that is your answer, I will accept it and pass on.

THE CHAIRMAN: What is your answer?

A. My answer is that it is conceivable that you might arrive at the same place, but generally speaking the public might not have any assurance that in all cases that would be achieved.

Q. But are you not mixing up two things, what the public thinks and what are the facts. What are the facts?

A. Well, the fact would be that if the carrier always meticulously priced that way then, of course, you achieve that result, simply the same result, shall we say, because <sup>of</sup> their own stipulation that it must necessarily be priced that way.

MR. EVANS: Of course, my submission will be in order to get this clear on the record, that the result will be very different indeed. Have we finally got your answer on that last question? Is there anything more you want to add to it?

A. Not for the moment.

Q. Now then, my understanding of the answer you gave to Mr. Brazier -- Before I leave that, perhaps I might suggest to you that you now would have a better understanding of the confusion we have expressed in our brief of the difference between the application of the cost of service principle and more nearly on the cost of



service principle or have I cleared that up in your thinking?

A. Well, I suggest that we are a little ambiguous in our statement.

Q. Well, your criticism of our brief was that you thought there was no ground for confusion and I am trying to clear up the matter. Abandonment of the principle is one thing and more nearly on the cost of service principle is another.

A. Well, perhaps again we are misunderstanding each other.

Q. Now, the first thing I want to discuss with you-- and I will not take long--is the elements of cost which you have, may I say, rather tossed overboard -- income tax, for example. Now, you say you do not regard income tax as an element of cost and I think you did qualify it "in the ordinary sense". Now, may I suggest this to you, that the sense in which we must look at all of these things is the rate making sense. You would agree with that?

A. Well, I think the rate making or the level of rates, if you like, is certainly a subject apart. I have never discussed the level of rates.

THE CHAIRMAN: Is what?

A. Is a subject apart; it is not involved in this discussion.

MR. EVANS: Well, I am going to involve it in the discussion. You may not want it involved, but I suggest to you that in order to consider what constitutes cost for rate making, whether you are going to apply the value of service principle or the cost of service principle, you must take into account those costs which enter into rate





making?

A. Again we may not see eye to eye as to what constitutes cost. We will have to leave it for the moment.

Q. Could you answer the question as I put it?

A. With the usual reservations, I would say yes.

Q. Will you read the question again, Mr. Reporter?

THE CHAIRMAN: Read it loudly please.

THE REPORTER: "Well, I am going to involve it in the discussion. You may not want it involved but I suggest to you that in order to consider what constitutes cost for rate making, whether you are going to apply the value of service principle, or the cost of service principle, you must take into account those costs which enter into rate making?"

MR. EVANS: Now, do you feel you cannot answer that question? I would say "all" those costs that enter into rate making?

A. Well, once again the main costs are the operating costs and anything above that represents a return on investment.

Q. And you do not recognize in the cost of providing railway service these costs that include income tax and that sort of thing apart from operating costs?

A. They may be considered in determining the rate of return on your investment. I think that is quite proper, probably.

Q. I am asking you whether you consider or whether you do not consider these as elements in the cost of providing service?

A. No, I do not think so.

Q. And in that respect you differ from the rate making authorities here and in the United States as regards



income tax?

A. Well, I must admit that I have never read very many judgments of the regulatory bodies. I can well imagine that they say that capital is entitled to a certain, shall we say, "take home pay" and in so doing they may take into consideration the income tax that is going to be charged on the net profit.

Q. Well, do you suggest that a railway company without providing for these things can be said to be providing services at cost unless it takes in these elements?

A. Which elements are those, again?

Q. Income tax and these other elements of cost other than operating costs?

A. I am sorry; I missed the first part of your question. I may be probably answering it incorrectly.

Q. Do you suggest that the cost to a railway company of providing service does not include those things which are beyond and above operating costs?

A. I am suggesting that is true.

Q. Now then, as to the question of income tax, I put to you that the **authorities** here and in the United States have agreed that income tax, apart from excess profit tax about which there is a question, is a profit element to be considered in making the charge for operations and is therefore an element to be considered in fixing rates?

A. Well, again if I can just give my own personal opinion of on the matter for what it is worth, if it is considered that 5 per cent is an adequate return on investment --

Q. I am still talking about income tax.

A. If income tax -- then they may have to award 8 per cent before income tax to net you 5 per cent. Now, I still don't think that the income tax is cost in the ordinary sense.  
(Page 14862 follows)





THE CHAIRMAN: Q. What is that?

A. That income tax is cost in the ordinary sense.

MR. EVANS: Q. It is cost in the rate making sense for our purposes here no matter whether you want to apply the cost of service principle or value of service principle. The ultimate cost of providing that service must mean the servicing of capital and the payment of income tax?

A. Well, I cannot entirely agree to that use of the word "cost."

Q. If you do not agree with me then you do take the responsibility of saying that you do not agree notwithstanding that has in substance been the finding of the tribunals in this country and the United States?

A. Again I think we are at cross purposes. I admit that it may be quite proper for the Board to take into consideration what income tax the carrier may have to pay on the net revenue.

Q. Yes.

A. And therefore, shall we say, make the net revenue larger so that it will give you a certain -- as I used the words before -- take-home pay.

THE CHAIRMAN: Q. Is the only difference between you that you refuse to call income tax a cost?

A. That is right.

Q. You say that is not a cost?

A. It is not an operating cost.

MR. EVANS: I did not say it was.

THE CHAIRMAN: Q. Do you think it is properly taken into consideration by the authority which fixes freight rates?

A. I am not passing any judgment on that at all. It may quite properly be taken in; I would not wish to



say it is proper or is not proper.

Q. Oh, I see. .

MR. EVANS: Q. Whether we agree or not on this -- and with respect I think we are perhaps inclined to split hairs here -- whether we agree or not, and whether you apply the cost of service principle or the value of service principle, you have to take into consideration these elements which I call a cost and which you say are just to be taken into consideration and you won't call costs. Is that not a fair way of putting it? You have to take into account all these items whether you apply the cost of service principle or whether you do not?

A Quite true, in setting the rate, the final price, the selling price, you must take into consideration the return on your investment and the income tax that may be deducted from that return.

Q. Are you familiar with a document published by the Interstate Commerce Commission entitled Explanation of Rail Cost-Finding Procedures and Principles, of October, 1948?

A. It says April, 1948.

Q. That is an earlier issue, is it?

A. I am not sure whether there are two issues.

Q. I do not want to waste too much time, but I suggest to you in the October issue at page 116 the cost-finding formula provides for a return on the value of property.

THE CHAIRMAN: Who says that?

MR. EVANS: The Interstate Commerce Commission uses that language.

Q. You are not familiar with that?





A. No, I am not familiar with that.

Q. Very well. Now then, coming to the question as to how far costs are variable with traffic --

COMMISSIONER INNIS: Has there been a trend in decisions on that problem, Mr. Evans?

MR. EVANS: There have been a large number of decisions on the question as to whether income tax and return on investment are a part of the rate-making formula. That is the only one to which I have ready reference where they used it in a cost-finding formula which indicates that they do not differentiate between these elements and cost elements. I think it does not make any difference what you call them. When you are doing it for rate-making purposes you must take them into account whether you use the cost of service principle or whether you do not.

COMMISSIONER INNIS: I was wondering whether the Interstate Commerce Commission had changed its policy over a long period of years, and whether it has come to emphasize more and more the inclusion of such items as income tax.

MR. EVANS: I think it would be fair to say it must inevitably have been more prominent in recent years. When the question first came up it was argued that income tax was payable out of profits and that it was therefore an expense of the shareholder as distinct from the corporation, but when income tax came to be the important factor that it has now become the regulatory bodies uniformly adopted the practice of including income tax as a part of the total cost of doing business for rate-making purposes.

COMMISSIONER INNIS: You do not know whether there was any turning point in those decisions?



MR. EVANS: Yes, there are turning points. For instance, excess profits tax was considered. I would be glad to give you some references. This question was argued at some length.

MR. FRAWLEY: In the rate cases.

MR. EVANS: My friend Mr. O'Donnell points out to me that the cases are pretty well summarized in the 21 per cent judgment.

THE CHAIRMAN: In what judgment, the 21 per cent judgment?

MR. EVANS: The 21 per cent judgment at page 22. They have a section there on the subject of income tax, and they refer to the argument made primarily by Mr. Ralston that income tax should not be taken into account as a part of the rate-making formula. They review the cases, and they list Railway Association of Canada vs. Canadian Manufacturers Association, 26 Canadian Railway Cases, 130, at 140.

COMMISSIONER INNIS: What date was that?

MR. EVANS: From the volume that looks to be about 1927. Then there is a much later one, Ottawa vs. the Ottawa Electric Railway Company. That is the most recent decision on the subject, and it is 59 Canadian Railway and Transport Cases.

MR. O'DONNELL: 1946, I think.

MR. EVANS: Unless you want them I will not list these cases, but they are there. Then we refer to decisions of the Interstate Commerce Commission in which the matter of excess profits tax was the turning point, as it were. According to my notes that decision is in 258 Interstate Commerce Commission Reports, page 41, at page 49. My note includes this quotation:





"We therefore conclude that excess profits taxes should be excluded, but that otherwise, under the principles announced in these cases" --

They had been reviewing the cases --

" -- federal income tax should be considered as a proper charge to operations in determining a reasonable rate."

COMMISSIONER INNIS: Excess profits tax was excluded?

MR. EVANS: Excess profits tax was excluded, yes. I do not know that we have had any such decisions here. In any case the Canadian Pacific, in any year in which this has been an issue, has never paid any excess profits tax.

COMMISSIONER ANGUS: Would it occasion any difficulty in Canada in transposing that language that you would be holding that corporate income tax was an indirect tax and therefore corporate income tax does not affect railways as such taxes are imposed by the provinces, and it would be unconstitutional?

MR. EVANS: I do not know that I could give you a useful answer on that. It would not strike me that it is an indirect tax. If it is imposed with the intention of passing it on to someone else, with the likelihood that it is passed to someone else, it might become an indirect tax. I do not think the question has ever been raised. At all events the division of authority in the income tax field has now been pretty well settled by agreement.

COMMISSIONER ANGUS: If the regulatory tribunal actually holds this tax should be passed on in the freight rates it is very difficult to say afterwards that it is



a tax that should not be passed on..

MR. EVANS: If that were the only test we might have an interesting subject for discussion, but I must say I have not thought of it in those terms. With respect, I think it is probably academic because of the fact that, so far as we are concerned, it is being passed on in that way which you describe.

MR. FRAWLEY: The freight shipper pays the income tax; that is certain.

MR. EVANS: I am sure Mr. Frawley would be one of the first to say that is a most reasonable position.

MR. O'DONNELL: The fellow who pays the freight pays it.

MR. EVANS: Q. Now then, I do not want to spend too much time on this, but when we come to the question as to whether or not --

THE CHAIRMAN: Does this not come down to the point whether it is proper for the Board, in fixing these freight rates, to take into consideration the income tax which the railway has to pay?

THE WITNESS: That is my position.

THE CHAIRMAN: Q. And whether that would not have to be done whether the principle followed is that of cost of service or value of service. In either case income tax must be considered in fixing rates, must it not?

A. It might be.

Q. Ought it or ought it not?

A. I am not passing any judgment whether it should or should not.

Q. That is the point.

MR. EVANS: My only point --



THE CHAIRMAN: It is my point. The question is whether income tax should be taken into consideration in fixing rates. It is done here in this country and it is done in the United States?

MR. EVANS: Yes.

THE CHAIRMAN: Apparently that could make no difference whether the basic principle applied was that of cost of service or value of service. It would still be there.

MR. EVANS: Yes.

THE CHAIRMAN: I am trying to get Mr. Brown's opinion as to whether or not it ought to be there and he will not give me any.

THE WITNESS: No, I have no opinion on it.

COMMISSIONER ANGUS: Mr. Evans, does it not occasion some difficulty? Suppose there was a variation in the rate of income tax. Would you think that should be reflected at once in a variation in freight rates up or down?

MR. EVANS: I think I would have to say yes to that.

COMMISSIONER ANGUS: A small variation from year to year?

MR. EVANS: Actually there is no such mathematical precision in rate making. The practice is established this way, that a formula is adopted which is expected to produce a certain financial result. I would say it is almost impossible to achieve that result exactly one way or the other, but the practice also includes the right of the Board to look at the matter from time to time -- it receives monthly results from the railways -- and determine whether they are within such





reasonable limits of what was the expected result that action or no action is to be taken with regard to adjusting rates. I certainly would have to say as a matter of principle that we would expect, and I think quite properly expect, to have any changes in income tax reflected in rates. I should say that the changes in dollars paid in income tax probably fluctuate far more violently than the rate itself, and after all it is dollars we are really talking about.

THE CHAIRMAN: In view of Mr. Brown's attitude how would you grapple with this problem? What would happen if the law prevented the Board from taking income tax into consideration in fixing rates?

THE WITNESS: I think, sir, the question --

THE CHAIRMAN: Mr. Evans may have a version of what would happen.

THE WITNESS: The question whether income tax should be included or not is tied up with the much larger question whether corporations as such should pay income tax.

THE CHAIRMAN: Q. Tied up with what?

A. The much larger fiscal problem.

Q. We are talking now of railways.

A. Yes, I know, sir.

Q. I say if the law prohibited the inclusion of income tax in the making of rates by the Board what would be the result of that? Where would we be then, do you think?

A. Well, unless they made some adjustment upward in the net return they would allow the railway it would reduce the net return of the railway by the amount of the income tax.



Q. Well, they have found to begin with that the railways require so much money?

A. Yes.

Q. And if you say that is exclusive of what they have to pay for income tax then what would happen?

A. Presumably if they need that much money --

Q. Would they get so much less and have to carry on notwithstanding?

A. That would be the result if they did not include the consideration.

Q. And you think that result would be a proper one, that they should carry on notwithstanding this exclusion?

A. Presumably they could not.

Q. They could not?

A. No, if they need \$30 million net to themselves to carry on, and if you immediately reduce that \$30 million by \$10 million that only leaves them \$20 million, but the question boils down to whether they need \$30 million.

Q. Suppose you assume they do. How are you to make up for it if you will not allow the Board to consider income tax?

A. Well, I would say if their minimum requirements are \$30 million and it is computed that income tax will be \$10 million that they must then be allowed to recover \$40 million. That seems to be the logical conclusion.

MR. EVANS: It really comes out in the wash then. May I refer the Board at this point to a section of the Railway Act that my friend Mr. O'Donnell has pointed out to me. For the moment I had forgotten that it existed. It is subsection 36 --

THE CHAIRMAN: What section?





MR. EVANS: Subsection 36 of Section 2, the interpretation section. "Working expenditure" is defined there as including taxes.

THE CHAIRMAN: Does it say anything about taxes?

MR. EVANS: Yes, in subparagraph (e), "all rates, taxes, insurance and compensation", and so on. There is an equivalent section in the Canadian Pacific statute.

THE CHAIRMAN: In that case income tax is classified as being a working expenditure.

MR. EVANS: Yes, by statute.

MR. FRAWLEY: That is a definition that goes a long way back of the presentday scale of income tax.

THE CHAIRMAN: I know, but it is there. It is speaking there to-day.

MR. FRAWLEY: Yes, and the Board referred to it and relied upon it in the 21 per cent case.

THE CHAIRMAN: Which case?

MR. FRAWLEY: In the 21 per cent case. The deficiency which the Board found in that case was \$19 million but they had to award them \$30 million because of the 65-cent dollar.

THE CHAIRMAN: The language is very express.

"'working expenditure' means and includes (e) all rates, taxes, insurance", and so forth. The thing is ought we to recommend a change in that? I suppose we must be discussing it for some purpose.

MR. EVANS: We are discussing it from the standpoint of Mr. Brown's submission here about what constitutes cost, and he is working on some distinction in which he is trying to apply the cost of service principle as against the value of service principle, and I thought



we had reached common ground.

THE CHAIRMAN: I think Mr. Brown has told us that if you do exclude income tax then you would have to increase the amount of the railways' needs to provide for it in some way.

MR. EVANS: My submission would be there is no issue as to whether income tax should be allowed in rates. It is a question of how you apply these rate-making principles to them. The second branch of these expenses that are matters of cost, what I call cost and Mr. Brown does not, about which we have been talking is the return on the capital, and if I understood your evidence yesterday it was that you had no very definite opinion either way on whether that constituted a cost of the service or not?

THE WITNESS: Well --

THE CHAIRMAN: Pardon me, Mr. Evans; would you say the item you have just referred to is included in this definition in the Act?

MR. EVANS: Not return on investment.

THE CHAIRMAN: Because the definition is given not only as including certain things but as meaning --

MR. EVANS: I do not include that in the definition.

THE CHAIRMAN: "Working expenditure" means and includes."

MR. EVANS: I would say offhand --

THE CHAIRMAN: At first sight it looks as if any item that has not been set out here is not meant to be considered as a working expenditure.

MR. EVANS: I did not argue that it was. I would think it could not be said to be a working expenditure, but



I am talking now of the ultimate total cost of providing railway service.

THE CHAIRMAN: I see that it includes counsel fees.

MR. EVANS: I should think that is probably at the top of the list.

(Page 14874 follows)





THE CHAIRMAN: I think the definition is very reassuring; cost includes counsel fees.

MR. EVANS: Q. I put to you this question: You do not, according to the evidence you gave yesterday, reach any very definite conclusion as to whether return on investment must be considered as a part of providing railway services, for rate making purposes?

A. I am sorry if I did not make myself too clear. The intent, in my view on the matter, once again, is that the return on investment, or the wages of capital, if you like --

Q. I like that "wages of capital".

A. That is a term which is sometimes used; must normally be met, if you expect more capital to participate. But once you have made the investment --

THE CHAIRMAN: What is that?

A. Made the investment, it may turn out that it was a poor investment, and that capital gets no wages.

MR. EVANS: Q. You would make an ex post facto determination of whether it was a poor investment, in determining whether there should be any return on it?

A. Naturally, no investment is made without the expectation of getting a return.

Q. You do not put any faith in the investor, in your thinking? Don't you think that, more or less, in fact, there is a moral obligation at least to provide him with a return, unless you fraudulently invest his money, or use his money?

MR. BRAZIER: Whose investment? Is it his money?

THE CHAIRMAN: I did not hear you.

What I think the definition is

is not in the same way

Q. Then, I put to you that question:

Now, if you are going to give

testimony, would you not definitely mention it to

whether there is a possibility of it being registered as a

fact of something which is serious, the fact asking

you to

Q. Now, if I did not make myself clear,

the fact that I am asking you to

the fact that I am asking you to

Q. The third aspect of capital."

Q. But in a form which is somewhat used; must

now, if I am not, it is exactly more capital to pay it

Q. Now, if I am not, it is exactly more capital to pay it

Q. Now, if I am not, it is exactly more capital to pay it

Q. Now, if I am not, it is exactly more capital to pay it

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MR. BRAZIER: He suggested that we are investing their money in the railway. They are investing it themselves.

MR. EVANS: That is certainly a clever interjection!

MR. EVANS: Q. May I put the question to you again: Is it your view that the return on investment in property is or is not an element to be considered in a rate making formula?

A. Oh, quite.

Q. And I suggest to you that there must be a return on investment if the railway is to continue to function, in order that the capital assets may be kept up, by additions and betterments, and kept improved, and replacements made?

A. I would agree.

Q. So that when you said, as I think you did say, that the railway company could continue to operate indefinitely if it can pay its operating expenses, did you mean to suggest that once the investment is made, the matter of the return is of little consequence?

A. No. I did not mean that at all.

Q. No.

A. I just say that provided you do cover your operating costs, in that unhappy situation, you might continue indefinitely. I think I said further that it is not a desirable situation.

COMMISSIONER ANGUS: Q. Is it not begging the question if a regulatory board or tribunal said: We are only giving a low rate because you have made a bad investment, or you have made a bad investment because we are only giving you a low rate? If the

Q. Now, we mentioned that we were

in the building, and that we were

Mr. [Name] is certainly a [Name]

Q. Now, when I saw the [Name] to

the [Name] and the [Name] the [Name] the [Name]

the [Name] the [Name] the [Name] the [Name]

Q. And I remember that the [Name] must be a  
[Name] the [Name] the [Name] the [Name]

Q. Now, the [Name] and the [Name] and the [Name]

Q. Now, the [Name] the [Name] the [Name]

A. I would agree.

Q. So that when you said, and I think you do

that the [Name] the [Name] the [Name] the [Name]

the [Name] the [Name] the [Name] the [Name]

Q. Now, the [Name] the [Name] the [Name]

Q. Now, the [Name] the [Name] the [Name]

Q. Now, the [Name] the [Name] the [Name]

A. Now, I did not mean that at all.

Q. Now, that is what you said for [Name]

Q. Now, the [Name] the [Name] the [Name]

Q. Now, the [Name] the [Name] the [Name]

Q. Now, the [Name] the [Name] the [Name]

Q. Now, the [Name] the [Name] the [Name]

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Q. Now, the [Name] the [Name] the [Name]



quality of the investment depends on the rate which the tribunal allows, can the tribunal be heard to say that it is a poor investment they made, so this is an improvident investment; the particular investment is improper? But can they say in regard to the whole system: You are not entitled to a return on it?

A. No, I am not saying that.

MR. EVANS: Q. That comes close to the suggestion of the Board of Transport Commissioners in one of the rate cases concerning the apportionment of dividends. They were going to apportion dividends by a formula by which the railway company could only pay a dividend if it had previously paid it in the period under review, and to the extent of it. Now, may I pass on?

MR. FRAWLEY: That was a helpful interjection.

MR. EVANS: Q. We try to be helpful, Mr. Frawley. Dealing now with the Canadian Pacific submission at page 58, you gave an answer, Mr. Brown, which rather suggested to me that the Canadian Pacific, in saying that the cost of service principle was unsound -- the assertion was there made that the cost of service principle was unsound, and you rather suggested that the Canadian Pacific did not attempt to substantiate their observation, and that it really boiled down to one hypothetical argument against another, or words to that effect?

A. I must confess that is my feeling about the matter.

THE CHAIRMAN: We have not the advantage of a copy. You might make it clear to us in your



question. What is your question about?

MR. EVANS: I did not get a copy of the transcript myself until this morning, so I could not page my notes from the transcript.

THE CHAIRMAN: No; it is not the transcript I am talking about. What volume of your brief is it?

MR. EVANS: Volume I, page 58.

THE CHAIRMAN: What is the point?

MR. EVANS: In the Canadian Pacific submission, which we are talking about, it is said that the cost of service principle was unsound. I am cross-examining on the answer which Mr. Brown gave when I asked him to comment on it.

THE CHAIRMAN: Yes; that is it; page 58, yes.

MR. EVANS: Q. The suggestion which Mr. Brown left, or the impression he left, was that the Canadian Pacific had not attempted to substantiate that; and his conclusion was that it really came down to one hypothetical argument against another. That is your view, is it?

A. That was my feeling, sir.

Q. Do you put any value on experience, Mr. Brown?

A. Well, my criticisms simply say that you did not give us the benefit of your experience. We had no means of appraising.

Q. Have we not the benefit of experience when we are supporting a principle under which we have been operating successfully for many years? Is there not a presumption of experience which would support that?

A. I am quite satisfied to go along with you, that from the railways' point of view the value of service principle must have been satisfactory, or else you would have abandoned it long ago.

Q. I think perhaps you put it unfairly when you



suggested it was one hypothetical argument against another. You may have been fair to yourself, but do you not think you were a little unfair to us?

A. No, I do not think I have been. I am not suggesting that the value of service principle as you applied it has not proved satisfactory to the railways. It obviously has, or they would have discontinued using it.

Q. When the railway suggests that the cost of service principle is unsound, and you suggest it is a hypothetical argument?

A. You refer to two products only, that is, to coal and silk.

THE CHAIRMAN: Q. On page 58?

A. The bottom of page 58 and the top of page 59; and you draw certain, I think, deductions.

MR. EVANS: Q. Are you suggesting that those deductions were drawn merely from that one example?

A. I was going to say that, perhaps, they are stock examples.

Q. Would you care to elaborate on what you mean by "stock examples"?

A. I thought I answered my objection to that example by going a little further along in my previous answer yesterday by stating that I questioned the validity of the premise on which the argument was put.

THE CHAIRMAN: Q. On what?

A. By questioning the validity of the basis on which the argument was put forth.

MR. EVANS: Q. Do you know of Dr. Bigham's book entitled "Transportation Principles and Problems"?

A. No, I am afraid that I cannot say I do.

Q. I would like to read to you a paragraph from



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page 326 of that book. This is a paragraph about which I would like to ask you whether or not you agree with it:

"In many industries requiring less capital than railroads, such as trucking, the maximum economical output tends to be brought about when individual prices are equated with total average unit cost; but in the railroad industry this is generally not true. So long as unutilized capacity is present and the plant has not reached its best size, rates based strictly upon average unit cost prevent the movement of paying traffic. Under a cost standard, the rates on articles of no value relative to bulk and weight would have to be raised, while the rates on goods of high value would need to be lowered. Such a readjustment would be undesirable, for it would reduce the total volume of traffic; force the average unit cost upward; and in some cases make it impossible for railroads to operate."

Do you agree or disagree with that statement?

A. I think, if I can remember, the key phrase in that description is the matter of unused capacity, whether the plant is properly adjusted to the traffic.

Q. Yes.

A. It might happen in a pioneering railway.

Q. Is that your only qualification in agreement with that paragraph?

A. I mean, that is, he says when the situation happens to exist, these other things follow; and I would have to agree.

Q. Is that your only qualification in agreeing with the paragraph I read to you? Would you like to look at it?

A. I am trying to think of the question you



asked me.

Q. I have read down to the end of the underlining in red pencil. Is that your only qualification? I do not want to be unfair about it. I want you to tell me the extent to which you disagree with it.

THE CHAIRMAN: What is the present question?

MR. EVANS: Q. He said in his answer that the key to the paragraph which I read was this question of the utilization of capacity.

A. If I may re-read it, he said:

" So long as unutilized capacity is present and the plant has not reached its best size, rates based strictly upon average unit cost . . ."

Q. Is that your only qualification?

THE CHAIRMAN: It is not a qualification. He has pointed out what the statement really is.

MR. EVANS: Then you do agree with that statement, and you point out that that portion of the statement dealing with unutilized capacity supports your position?

THE CHAIRMAN: No, no. Either as to the extent it lays down a certain principle which has been applied in that condition of unutilized capacity. Would you read it again?

MR. EVANS: "In many industries requiring less capital than railroads, such as trucking, the maximum economical output tends to be brought about when individual prices are equated with total average unit cost; but in the railroad industry this is generally not true.

I now ask the witness whether he agrees with that, separately. Do you agree with it?

A. You mean, it is generally quite true in the case of a railway?

Q. Yes.

A. I am afraid I cannot.

... and I was at the end of the investigation.  
... I was not only satisfied with it, I was  
... to be satisfied with it. I want you to read it  
... the extent to which you have been with it.

THE PRESIDENT: What is the present situation?

MR. TAYLOR: I am not sure, but I think it is

... the situation is as follows.

... the situation is as follows.

"The situation is as follows. The situation is as follows.  
The situation is as follows. The situation is as follows.  
The situation is as follows. The situation is as follows."

... the situation is as follows.

THE PRESIDENT: It is a question of the situation.

... the situation is as follows.

MR. TAYLOR: Then you do agree with that.

... the situation is as follows.

... the situation is as follows.

THE PRESIDENT: No, no. But it is the

... the situation is as follows.

... the situation is as follows.

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Q. Would you agree with Dr. Bigham who seems to think that the question revolves about the capital required and the capital invested?

A. No, I do not agree with that either.

Q. You do not agree with that. Now then, this is the conclusion: so long as unutilized capacity is present --

THE CHAIRMAN: There is a condition that so long as unutilized capacity is present; then what follows:

MR. EVANS: And the complaint is:

". . . rates based strictly upon average unit cost prevent the movement of paying traffic."

THE CHAIRMAN: During that time?

MR. EVANS: Yes, sir.

MR. EVANS: Q. Do you want to comment on that? Does that support your view?

A. I would be in agreement with that statement.

Q. Do you think it supports the view you have been expressing here?

A. I do not think it disproves it or is contrary to it.

Q. Do you rely on it?

A. I do not think it disproves my position.

Q. Do you think it helps your position?

A. I do not think it either detracts or adds to it.

Q. Then why did you say that it was the key to the whole thing? Do you think it has anything to do with our problem unless it is coupled with this unutilized capacity?

A. That is right. I said there is no evidence there which would either agree or disagree with the



circumstances in which those things were true.

Q. Do you or do you not agree with Dr. Bigham in that paragraph, without any qualification?

A. I guess I would agree with Dr. Bigham in that paragraph without any qualification.

Q. Do you think the question we are discussing, as to whether the cost of service principle is unsound, depends or does not depend on the question of unutilized capacity?

A. It is certainly related to that factor.

Q. Yes. Now, how far do you think it is related to that factor?

A. Well, once again we have to re-quote this Mr. Bigham:

"So long as unutilized capacity. . ."

In other words, the plant has not been properly adjusted to the traffic, which usually is the situation in pioneer railways.

Q. Yes?

A. Then there is some validity in pricing.

Q. In differential pricing?

A. Yes.

(Page 14889 follows)



Q. So that if there is unutilized - -

THE CHAIRMAN: Would you say that condition applies to either of our railway systems today, the condition that he sets out there?

MR. EVANS: Are you asking me that? My submission would be it can never apply. There never can be that state with a common carrier who has an obligation to serve demands which he can not accurately forecast, that he should ever have a plant that has not got unutilized capacity, taking the complete year. He might find some years he is right up to his total capacity, but he must at all events as a common carrier have a plan for unutilized capacity. He is forced in that position from the start because he has this obligation as a common carrier. I therefore say that there can never be a railroad that can ever function as it was intended to function unless it does provide for unutilized capacity.

THE CHAIRMAN: Do you agree with that? That is important, you see.

A. The answer is, I think that is true of almost every business, whether it is merchandising or manufacturing: they always have an unused capacity of some kind, at some time, or at some places.

Q. So long as it is true, then according to the author here, certain results follow which would militate against your possibility of fixing rates.

A. But the point is that normally speaking the plant eventually is made to fit the





average expected traffic, and no matter what you do about it you are going to have seasonal periods when there is unused capacity, and there may be even sections of the - -

Q. Well, it may be ( I am not saying it is of course ) it may be inherent in the case of railways that there may be unused capacity there, unused demand, all the time.

A. I suggest that is hardly any more inherent in railways than in other major large-scale types of business.

Q. Then you would disagree with the author as to that?

A. Well, I accept his description that if you have a large amount of unused capacity, if the plant is completely unrelated to the traffic it is going to bear - -

Q. He does not say it is completely unrelated.

A. Well, he says it has not been adjusted which is the case in a pioneering - -

COMMISSIONER ANGUS: Would it follow from that, Mr. Brown, that if a railway reached capacity it ought to be free to drop its least remunerative traffic so as to concentrate on the more remunerative?

A. Well, I think I suggested yesterday that they might not necessarily make the same amount of profit in each element of traffic.

Q. That is true, but suppose they reach a capacity so that something has got to go. Should they be free to drop that traffic and simply not take it,



that they make least profit on?

A. That is, they are working almost at excess capacity.

Q. I mean, aren't they under some obligation to carry everything?

A. I believe that to be true.

Q. Would not that in itself create something very analagous to unused capacity, that is to say, capacity being used for something less remunerative than it would be physically possible to use if for?

A. The only answer I can give, Dr. Angus, is, shall we say, common carriers are in rather a peculiar position, that they are not entirely free to make the best, always the best, use of their plant.

COMMISSIONER INNIS: Would it be fair to say, Mr. Evans, that you would regard unused capacity as one of the necessary costs of rail transportation?

MR. EVANS: I would say, yes, because of the obligation to serve which a common carrier has, and it begins when you begin to build the railroad. Perhaps your unused capacity is greatest at that time, but you must always have some unused capacity: otherwise you are going to break down the economy of the country, and since that is true you want to utilize that as near to the desirable maximum as you can.

THE CHAIRMAN: Would you give me again the whole of his phrase? He does not refer only to unused capacity.

MR. EVANS: Oh, yes, "and when it has reached its best size". I would not attempt to interpret that. The two things are joined by a conjunction: "so long as





unutilized capacity is present and the plant has not reached its best size".

THE CHAIRMAN: Best size?

MR. EVANS: Best size, yes. I suppose one could visualize a country in which there was no growth in the economy at all; it had settled down, had a stable population, a stable production; and, where the railroad, having been adjusted to the requirements of that stable population and stable economy, might have reached its best size. I think that is perhaps what the author had in mind.

THE CHAIRMAN: Is that book on railways only, or is it on industry?

MR. EVANS: I think it covers all forms. I have not read it all.

THE CHAIRMAN: What is the title?

MR. EVANS: "Transportation principles and Problems".

MR. SMITH: It principally relates to railways.

MR. EVANS: Yes.

MR. SMITH: Incidentally it deals with other matters under the Transportation Act.

MR. FRAWLEY: There is a very good section on long and short hauls in that same book.

MR. EVANS: Is that why you brought in Dr. Locklin as a witness?

THE CHAIRMAN: Mr. Evans, we will adjourn for a few minutes.

- - - SHORT RECESS:



MR. EVANS: Before we leave the question of unutilized capacity, Mr. Brown, I just want to suggest this to you. I think in reply to the Chairman, you suggested that all industry had to have unutilized capacity, and I am suggesting to you that a manufacturing plant, for example, is under no duty to provide for any excess capacity unless it desires to do so?

A. Yes, I think in answer to Dr. Angus I admitted the railways were in a slightly different position.

Q. Then, would you also agree that that is probably true of the trucking industry today?

A. Well, I am not too sure of the regulations that apply to the industry as common carriers, whether they are compelled to supply the services.

Q. Do you know of any provincial regulations or any regulations that require a trucker to put on added trucks if the demand for his services requires it, even though he may desire not to meet that demand?

A. Well, I am not too familiar with the regulations in our own Province, but I understand that they are compelled as common carriers to provide the service.

Q. Well, are they compelled to go out and purchase equipment if the shippers provide traffic beyond the capacity of existing trucks?

A. I don't know that it is stated how they must satisfy that demand.

THE CHAIRMAN: That depends on the regulation in each case.



MR. EVANS: I think so. I didn't know if the witness know of any such. Q. If I might turn for a moment to another branch of your evidence, you had been dealing with the question of elasticity of demand. Your suggestion, if I got you correctly, was that the argument of the Canadian Pacific appeared to be based on the fact that elasticities of demand for transportation for different commodities vary so much that one can only achieve maximum results by paying heed to those elasticities when pricing; and that you think it would be recognized that the elasticity of demand for transportation is actually a derived elasticity of demand. You recall that part of your evidence?

A. That is right, sir.

Q. Now, then, it was your argument, as I understand it, that basic commodities had a lower, or smaller, I think you put it, elasticity than the highly processed or highly valued things.

A. That is my impression, sir.

Q. Now, let me explore that with you. I am afraid I am quite deficient in these technical terms, but as I understand elasticity of demand, it is this in relation to transportation costs: that the demand remains constant, that is to say it is inelastic when it is constant, and it is elastic when it reflects changing demand due to changes in transportation costs.

A. No, not cost price. We would say it is inelastic if a change in price did not change the volume or the demand.





Q. Yes, so that no matter what the price is, if the demand remains constant you would say it had an inelastic demand?

A. That is right.

Q. And conversely, if a change in price affected the demand you would say that the demand was elastic?

A. Quite.

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Q. And the assertion was this, you rather suggested that the elasticity of the amount is lowered, that is to say, the demand is less affected by price in the case of the basic commodities?

A. That is correct.

Q. And more affected by price in the case of the highly valued commodities?

A. That is correct.

Q. And then you suggested, I think, something like this, that this indicated that the argument of the Canadian Pacific was unsound from the start?

A. That was my contention.

Q. Then, am I correct in this, that the reason you say that that is an error in our reasoning is that the basic commodities, having an inelastic demand, that is to say, their consumption of those commodities is less affected by price and stand an increase in rates without affecting the volume of traffic?

A. That is correct; that is the argument.

Q. And conversely if transportation costs go up on the highly valued commodities, the volume of traffic will be affected adversely?

A. That is correct.

Q. Then, it was your view that the case for the Canadian Pacific on the value of service principle was in some way, while apparently based on an acceptance of that theory, unsound because it did not recognize that fundamental fact?

A. Yes, I think that is the argument I put forth.

Q. Now then, there are two or three things that flow from that. Is it part of your argument that because of this question of elasticity that we have been discussing, the cost of service principle since it tends to bring every



thing into a narrower range would be more realistic or do you argue that?

A. Well, first of all I am not too sure whether the application of the cost of service principle would actually bring rates into a narrower range.

Q. You are not?

A. I am not too sure that that would happen.

Q. Well, I want to explore that with you. Now then, your argument is that the Canadian Pacific's argument is unsound because of the fact that basic commodities have a constant demand and are less affected by price and, therefore, the traffic volume is less affected by raising the rates on basic commodities and lowering the rates on highly valued commodities. Am I right?

A. That is the gist of the argument.

Q. Now then, that, I suppose, that concept involves a suggestion that if the cost of service principle did result in a narrowing of the range, that you would be prepared to countenance or support an increase in the rates of basic commodities and a decrease in the rates on the higher valued commodities?

A. I do, but there is the word "if".

Q. If it was the necessary result on your cost of service principle that you did narrow the range from the lowest to the highest rates, that you would still retain the volume of traffic to the railways and that it would really support the practicability or feasibility of your cost of service principle?

A. I am not certain whether I --- First of all, I do not think I quite agree with the premise. I do not think the range would be narrowed. If anything, I think the range would be increased.





Q. Then, what was the purpose of your saying that the Canadian Pacific's argument was unsound because of this question of elasticity?

A. Well, I assumed, and perhaps unfairly, that the argument was based on that. You referred to coal and silk and you suggested that the volume of traffic would be materially lessened and again, if I followed the argument properly, lessened because you would have to increase the rates on coal and, therefore, the volume of coal would fall off and you would have to reduce the rates on silk but that would not increase the volume of silk proportionately.

Q. And you think that was the reason it was unsound and that that is demonstrated by this argument on elasticity?

A. That is right.

Q. Then, doesn't it follow that if that were the result, you would be prepared to accept the result?

A. Yes, we would have to accept it.

Q. And isn't it in effect an argument that basic commodities can stand an increase in rates without affecting the demand for those commodities and that the higher valued commodities would probably move in even greater volume by a reduction in rates?

A. Yes, I think that is probably true.

Q. Now does that not rather put you in conflict with Dr. Locklin?

A. Could be.

THE CHAIRMAN: Have you told him what Dr. Locklin says, Mr. Evans?

MR. EVANS: I am just looking it up, sir. Is not the value of service principle related to quite a different viewpoint than the mere increase in volume of



traffic?

A. Well, all I can assume is that presumably you have priced that way in order to, as you say, get a certain volume of traffic.

Q. But isn't the principle of the value of service or the value of service principle, isn't it a combination of getting the desirable maximum volume and finding a rate that in moving that volume will provide also the maximum profit to the railways?

A. Yes, I think you are trying to maximize your returns.

Q. Maximize your returns which is maximizing your volume. You could maximize your volume to a greater degree if you are prepared to accept it at a rate lower than is presently charged; in other words, you can encourage an increase in the volume of these higher priced goods that are affected by price by lowering your rates on those higher value commodities?

A. That is true.

Q. But where I am going to suggest to you that <sup>is that</sup> you come into conflict with Dr. Locklin/as he defines the value of service, you do not look merely at the volume moved; you look also at the question of what will be the maximum profit by moving the maximum volume?

A. I would agree. I do not think there is any disagreement between us on that.

Q. But then I thought you said that because of this question of elasticity the position of the Canadian Pacific in supporting the value of service principle was unsound from the start?

A. Well, if I may say so, I think you have certain reasons for adhering to that pricing policy but I think I might suggest that it appears to me you are putting forward



other reasons.

Q. Now, I am going to read you some sections from Dr. Locklin's book, very short ones, and this embraces this whole question of the value of service principle and I am reading from Page 152 and I will read it in bits and ask you whether you agree with it. This is the first sentence:

"The railroad rarely attempts to charge the entire value of the service on each commodity or class of traffic."

Do you agree with that?

A. In other words, they do not attempt to extract the maximum they could?

Q. Yes, the entire value of the service. I am distinguishing between the words the "value of the service" and the "value of service principle" as you will see when this goes forward, but would you agree that -- "

"The railroad rarely attempts to charge the entire value of the service on each commodity or class of traffic."?

A. Well, I agree with that. By and large it is probably true.

Q. Then I go on:

"The value of the service sets an upper limit beyond which the traffic will not move."

Do you agree with that?

A. I agree with that.

Q. "Prime or variable costs, on the other hand fix the lower limit below which the rate must not fall."?

A. Well, he has said there "must not" or "should not". I think there is a difference between that and, shall we say "does not".





Q. Well, I have nothing to say about that.

"Must not", I suppose, is used in a regulatory sense.

"But where between the upper and lower limits will the rates be fixed? The answer is summed up in the phrase 'charging what the traffic will bear'. This is a much abused phrase. It is often falsely interpreted to mean exacting the highest possible charge that can be extorted from shippers." Now then, is there any suggestion in some of your examination yesterday by Mr. Brazier that the only limit on the railroad charging the maximum of what the traffic will bear would be the bargaining position of the shipper?

A. From the shipper's point of view that would have to be the maximum.

Q. I do not want to have it qualified from the shipper's standpoint. Is that the only way you indicate, to suggest that the position of the railways was limited only by the bargaining position, the relative strength of the bargaining position of the railways and the shippers?

A. I think I tried to suggest, sir, that the final rate probably lay somewhere between the lower limit acceptable to the railway and this upper limit and I did not mean to infer at all that the railway always or even at any time drove a hard bargain.

Q. I am not suggesting improper motives but I want to get exactly what you did mean because I understood from your evidence that you thought that subject only to perhaps some ceiling fixed by the Board, the bargaining position of the shipper and the railways determined the extent to which the value of the service would be reflected in the rate?



A. Well, I suppose we are back to what we mean by "value of service" again.

Q. Value of the service -- not the value of service principle. If you did not mean to infer that I will pass on. I would like to pass on. If you did not mean that you were giving undue importance to the bargaining position of the parties, if that was not the effect of your evidence, then I will pass on:

A. I think the effect of my evidence was that the bargaining position of the parties is an important factor.

Q. Now then, after some further remarks (I do not want to read all of it) this is a further statement by Dr. Locklin in the same paragraph on the following page, 153:

"To be more precise, charging what the traffic will bear means charging the rate on each commodity, which, when the volume of traffic is considered, will make the largest total contribution to fixed or overhead expenses."

Do you agree with that?

(Page 14903 follows)



A. Well, that would be essentially the same thing as suggesting that in each case you make the best bargain you can above your --

Q. But it has a very different connotation, has it not? It has this connotation, that there is the objective in this value of service principle of maximizing the volume of movement, and is that not the essential difference between a mere question of bargaining?

A. I am afraid I cannot see the distinction you are making.

Q. Let us suppose that a shipper would be prepared to pay a rate of \$1 if he had to, if he were forced to, if his bargaining position required that he had to do it. It might pay the railways to put in a rate of 80 cents in order to make sure that the shipper could develop his business and increase his traffic?

A. Quite.

Q. You see, that is the distinction I am making, and I suggest to you that is what Dr. Locklin means, and that is what the Canadian Pacific mean when they talk about the value of service principle?

A. I suggest in that case where the shipper is in, shall we say, a somewhat weaker position from a bargaining point of view that you may actually find it to your advantage not to charge the full amount that he could pay but maximize your returns at a somewhat lower level.

Q. Maximizing the returns is a very different thing from maximizing rates?

A. Oh, absolutely.

COMMISSIONER INNIS: Or would you say different from maximizing revenue? I am a little bit confused about maximizing movement -- is that the phrase used?





MR. EVANS: He says:

"To be more precise, charging what the traffic will bear means charging the rate on each commodity which, when the volume of traffic is considered, will make the largest total contribution to fixed or overhead expenses."

COMMISSIONER INNIS: That does not mean maximizing movement?

MR. EVANS: I think it means maximizing movement in the sense that taken together with the contribution to fixed or overhead expenses you also get a maximizing of profit to the railway.

COMMISSIONER INNIS: That is to say, it might really be that maximizing movement would not maximize revenue.

MR. EVANS: That is my point, that the witness' theory of elasticity of demand would certainly result in maximizing movement, but it might at the same time result in minimizing profit.

THE WITNESS: I was going to say that I take it in that case you would be charging the normal and, shall we say, the monopoly price which is the price that gives you the greatest return in terms of volume produced.

MR. EVANS: Q. I am not sure if you mean to differentiate between what I have read you as to what Dr. Locklin says. If you are I should like to examine it with you, or are you just stating it in different language?

A. I think I am just stating it in different language.

Q. There is no difference in principle between us at this moment?

A. No.



Q. Now then, at the top of page 154 I would like to read this to you:

" The most profitable rate will be at different points for different commodities."

Do you agree with that?

A. That is quite true.

Q. "Whether it will be high or low will depend upon the prime cost of moving the particular commodity and upon the nature of the demand curve."

A. Correct.

Q. He uses "prime cost" there as synonymous with variable cost, does he not, in an earlier passage we have read?

A. I think that is his use of it.

Q. And I read this again:

"Whether it will be high or low will depend upon the prime cost of moving the particular commodity and upon the nature of the demand curve."

When he says "whether it will be high or low" that is the most profitable rate. Would you agree with that quotation too?

A. Yes. In each case you are maximizing your return from each segment.

Q. "After the rate has been adjusted to the most profitable point, a change either upward or downward will reduce the railroad's profit."

A. Oh, quite.

Q. Now then --

A. But in each case these are monopoly prices, that is, you are setting a monopoly price for each segment of your traffic, and where you can do that that is the proper way to maximize your profit.

Q. And of course you have regulation to see that in maximizing your profit you do not extort more than you should?



That is the purpose of regulation?

A. But it may be that the actual ceiling as it has to be set up turns out to be considerably above this rate which will maximize the return.

Q. It may be, and that is why when we talk of a ceiling we talk in terms of the standard rate but the vast bulk of rates are below that ceiling?

A. That is quite right.

Q. Now then, you drew attention to major segments of traffic which are not now being carried at remunerative rates, and among them you mentioned the Crowsnest Pass grain rates?

A. I think I paraphrased it by saying from a reading of your brief it appeared.

Q. I am sorry, I do not want to tie you to that. Perhaps I should rephrase my question. You were commenting upon the position taken by the Canadian Pacific that certain rates were unremunerative, and you used, among the examples to which your evidence referred, the Crowsnest Pass grain rates?

A. That is right.

Q. Now then, you rather suggested that the railway did not seem to fear the effect of an increase on those rates upon the volume of movement?

A. If I read your brief correctly, that was my conclusion.

Q. And I do not think you and I have been in any disagreement. That would be because the elasticity of demand for wheat is perhaps less, and therefore the movement of wheat is perhaps less affected by the cost of transportation?

A. That would be right.

Q. Now then, did you mean to suggest that the position taken by the Canadian Pacific in its brief with regard to these rates was out of harmony in any way with the value of





service principle, because if you did not I will pass on.

A. Well, I suppose probably it would not, no.

Q. I did not know why you referred to it unless you had something in mind about inconsistency somewhere?

A. I was trying to determine, quite frankly, what segments of the traffic did not now appear to be bearing reasonable costs.

Q. But your principle would require that if they were not, in fact, bearing their full cost these rates should be increased?

A. Yes, I think in our original brief we said that where any traffic -- and I am not saying the Crowsnest rates are unremunerative but if they are -- that they should be raised to the remunerative level, and any loss, or if the industry is in bad straits that would have to be a matter of a general subsidy.

Q. Now then, when you were commenting on page 61 of the Canadian Pacific brief you were stating your objections to the value of service principle, and you referred to Professor Locklin as having defined this principle as the highest charge that can be levied without preventing a shipment from moving. I suggest to you you have misinterpreted Dr. Locklin?

A. Or misquoted him.

Q. I think misquoted him, actually.

A. I think the quotation is on page 157.

Q. Is it 157 or 152?

A. I think it is 157.

Q. No, it is 150. Here is the quotation I think you were intending to refer to.

MR. FRAWLEY: Have you got the reference in Mr. Brown's evidence?

MR. EVANS: I have not had a chance to go through



the transcript. I did not get it until this morning. I think you will recognize this. I am reading from page 150 of Dr. Locklin's book.

" We shall therefore define the value of the service as the highest charge that can be levied without preventing a shipment from moving."

In your quotation of him or in your reference to him in your evidence you say that Dr. Locklin defined the value of service principle as the levying of the highest charge that can be levied without preventing a shipment from moving.

A. If I have misquoted him -- I have not a copy of the book.

MR. BRAZIER: Is there a similar reference on page 157?

MR. EVANS: I don't know. I cannot take time to read it. There is little doubt this is what he was referring to.

MR. BRAZIER: Probably if you will let him see the book -

MR. EVANS: I will if he is in difficulty with it. I have the reference to the transcript. It is to be found at page 14820 and reads:

"Mr. Brazier: On page 61 of the C.P.R. brief, Mr. Brown, they state:-

'The system of rate-making used by Canadian railways is the value of service principle.'

What objections have you to this pricing policy?

A. Professor Locklin, who appeared before this Commission, has defined the value of service principle as the highest charge that can be levied without preventing shipments from moving."

This is what Professor Locklin says:

"We shall therefore define the value of the service



as the highest charge that can be levied" --

You see I want to direct your attention to the fact that the definition you have referred to is not a definition of the value of service principle, but a definition of the value of the service. Do you follow me?

A. I follow your criticism.

Q. Now then, if you are talking about the value of the service you may not be talking about the value of service principle as applied in rate making. I suggest to you the value of the service is this upper limit that you were speaking of whereas the value of service principle in rate making, as it has come to be known, recognizes that you do not go to that upper limit if it will not maximize volume and profits. Do you see my point?

A. I see your point.

Q. Do you not think now that perhaps you have misquoted Dr. Locklin to that degree?

A. There is a possibility; I will have to check that. I did not have access to the book recently.

THE CHAIRMAN: I suppose, Mr. Evans, that the point we are really pursuing here is to determine how the ceiling ought to be fixed. You see you say there is a ceiling, and that ceiling is the charges allowed by the Board. You operate up to and below that ceiling. On the same page of your brief you say:

"Cost of service, while not the principle on which railway rates are made in Canada" --

You mean there made by the Board?

MR. EVANS: No, I say that is not the principle --

THE CHAIRMAN: When you say "made", "cost of service, while not the principle on which railway rates are made" -- what do you mean by that?





MR. EVANS: I mean made by the railways under regulation of the Board.

THE CHAIRMAN: You do not mean fixed by the Board?

MR. EVANS: Some are fixed and some are not. Some are fixed by the Board and others by the railways themselves.

THE CHAIRMAN: I take it the first process concerns us.

MR. EVANS: I think both do.

THE CHAIRMAN: Primarily what should be the scope of the Board? You say that cost of service is a factor or consideration in fixing a rate on a given commodity or class of commodities?

MR. EVANS: Yes.

THE CHAIRMAN: That is, the Board does that very thing; it fixes what you call a ceiling on classes of commodities, and do you say that in doing that they do not follow the principle of cost of service but that they give it some consideration?

MR. EVANS: Yes, sir.

THE CHAIRMAN: And what other principles?

MR. EVANS: They apply the value of service principle, which is a combination of differential pricing with cost pricing. The distinction between the cost of service principle and the value of service principle is that the cost of service principle pays attention only to cost and the other pays attention also to differing abilities --

THE CHAIRMAN: You say the Board to-day takes both these things into consideration?

MR. EVANS: Yes, that is the whole principle.

THE CHAIRMAN: The cost of service and the value of service?



MR. EVANS: Yes.

THE CHAIRMAN: Q. What change would Mr. Brown make in that? You would substitute, would you?

A. As I suggested yesterday, sir, it seems to me that value of service as a criterion is a subjective quantity --

Q. Yes, you told us that, but there are the two things, the cost of service and the value of service. We are told those are the main elements that the Board takes into consideration in fixing charges. You say that is wrong, do you not? You would substitute what you call -- what do you call it?

A. We would say they would have as a criterion the cost of service, and that the rates should be fair and reasonable in relation to that.

MR. FRAWLEY: I think it is only fair to make this observation in view of what my friend Mr. Evans has just said. His chief traffic expert, Mr. Jefferson, has told us on more than one occasion that he cannot tell us what it costs to move traffic from point to point.

MR. EVANS: This witness has said the same thing. We never denied that.

MR. FRAWLEY: You have just told the Chairman -- and I am sure honestly -- that the cost of the service enters into the fixing of the rate.

MR. EVANS: Perhaps Mr. Frawley should read some of these books rather than interrupt me because it is quite simple. We have discussed this many times, that there is an element of cost in the value of service principle, and if you would like me to help you on it it means that the variable costs are the minimum, the out of pocket costs are the minimum. The over-all cost is



reflected in the total level of rates. The cost of service principle allocates to each group of commodities the cost of carrying that commodity. There is no inconsistency in what I am saying at all.

MR. FRAWLEY: I am sure this is all very interesting, but I am intensely interested in the practical application --

MR. EVANS: Are you objecting to my cross-examination?

MR. FRAWLEY: Well, I just thought I might assist.

(Page 14915 follows)





COMMISSIONER ANGUS: Q. Is there anything subjective about the value of service, as Professor Locklin defines it, I mean the definition which was read?

A. Well, I think it is a matter again of opinion, as to what rate might or might not stop traffic.

Q. You would find it out by trial and error?

A. Yes.

COMMISSIONER INNIS: Q. It is a theoretical question in any case.

A. That is right. I think the chief difficulty of the application of that principle is that it may tend to bring about monopoly pricing, where a monopoly exists, and competitive pricing where competition exists.

Q. I am wondering whether consideration of the whole problem, from a monopoly point of view, might clarify your argument.

Start with the argument that a railway is a monopoly, and that it is handling traffic presented by a great group of monopolies, and that those monopolies are being exploited by the railways, in so far as they can be exploited; and thus evade the whole question of competition which, it seems to me, gets them into this administrative cost of service principle, and perhaps to overlook the monopolistic element which seems to be very peculiar to the whole industry.

A. I am not quite certain that I follow your question.

Q. Well, I do not know that I can put it any more clearly. I suppose that all text books start with the assumption that railways are monopolies?

A. That is right.

Q. They are monopolies, therefore they are not

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concerned about the monopolizing of their services to the maximum advantage?

A. Yes.

Q. Now, all shippers are, in their own way, monopolies; that is to say, presumably if they are not monopolies, and competition does not exist, there is no movement of traffic. But they have a monopoly which enables them to ship the goods certain distances and to dominate certain markets.

A. I think the difficulty, as I understand it, is that in certain segments, certain areas, the monopoly element on the part of the carrier is much stronger, relative to the user.

Q. Yes. That is the whole thing.

A. While in other parts, the reverse situation is true.

Q. Yes; and the position gets into that of elasticity of demand, and that type of commodity is perhaps overlooked in the sense that it is not so much the matter of demand as the matter of monopoly position, such as in the case of wheat. Let us say, in Western Canada, if railroads are in a position to over-expand that monopoly by charging too much, then there will be complaints. And there your statute is a protection against overcharging, by a monopoly, on the part of the wheat producers?

A. It seems to me that the criterion by which a regulatory body can judge whether the monopoly price is too high has, somehow or other, got to be related back.

Q. When it comes to an argument about discrimination or unjust discrimination, that is what happens. You go back to that sort of yardstick.

A. Perhaps I might put it this way: I do not think I suggested they should make the same amount or



rate of profit for each segment of the traffic.

I can quite visualize where there would be some variation in the rate of profit which might reflect a monopoly to a moderate degree. But there is still no basis, so far as I can see, by which the regulatory body has any means of deciding, not the question of undue preference as between two shippers, but just a matter of discrimination, whether it has become too great.

COMMISSIONER INNIS: I am sorry, Mr. Evans.

MR. EVANS: Q. If I might just follow up with one question on monopoly. I understand that you make an exception in your doctrine, in the case of the railways meeting competition from other forms of carriers; I think you mentioned motor carriers as one?

A. Yes. It could be motor carriers.

Q. Have you any idea of the average cost of carrying traffic by motor vehicle, in round figures, per ton mile?

A. As contrasted with the railways?

Q. No. How much per ton mile would you think it would be?

A. I have not any idea.

Q. I am not going to ask you to accept this figure, but let us suppose -- and there has been a great deal of evidence -- let us suppose that the average cost of carrying goods by motor truck is from 4 to 5 cents per ton mile, while the average cost of carrying goods by rail is 1.2 or 1.3 cents per ton mile.

Would not the application of your cost of service principle, which I understand you want to apply on averages --

A. Yes.

Q. In fact, produce an even greater monopoly than now exists, by eliminating motor truck competition?







A. Well, it seems to me that, as a country, we have somehow or other apportioned the traffic between the various types of carriers; and it appears that the railways have a very strong position in certain types of traffic; they are unbeatable, shall we say; and I might also say that in other types of traffic, apparently, they cannot compete. Then, there are the border line cases.

But I suggest that if we have to strike some kind -- or maintain some fair competition between the various types of carriers, the only means whereby it can be done is by a reasonable cost basis.

Q. Does the differential pricing of the railways produce more than a close approximation of the motor carriers not provide some of the difficulty in getting that sphere defined?

A. Yes.

Q. And if you want an average cost basis, you would quickly eliminate all except purely local traffic deliveries by motor truck in the country?

A. We would then know what the motor truck carriers should take and what they should not. The public themselves would decide.

Q. I suggest to you that the monopoly position of your railways would be greatly strengthened by this kind of cost of service principle which you propose?

A. Well, may I say, so what?

Q. If you agree with that, that is all right.

A. That is fine.

Q. Then you rather disliked, I gather, the use of the term "out-of-pocket cost" as used by the Canadian Pacific in its brief?

A. To be quite frank with you, I have been unable



personally --

Q. To rationalize it?

A. Both rationalizing your position, or to find one which satisfied myself.

Q. You would say you did not think it could mean marginal costs?

A. Right.

Q. Because marginal costs tend to go to zero?

A. That is right.

Q. In many cases they go to zero?

A. Pretty close, I think.

Q. Suppose we have a little examination of the difference between marginal costs and average variable costs.

Average variable costs are simply derived by dividing the total dollars of variable costs with the total units of traffic; while marginal or instrumental costs, they are the costs incurred by added traffic or traffic subtracted. As a matter of principle, when the average variable costs are constant, the marginal costs are also constant, and will be found to be of the same level?

A. That is true.

Q. When the average variable cost is ascending, marginal costs prove to be higher than average variable costs.

A. That is correct.

Q. And the reverse is true?

A. That is correct.

Q. I suggest to you that we have never had, in recent times, any evidence of declining variable costs in the railroad business per unit, average variable costs per unit.



A. Well, I will take your statement for it.

Q. You will not have to take my statement because I have an extract from the "Quarterly Journal of Economics", from an article written by Professor L. Wilson and Professor J. R. Rose. I do not know them. It is dated August, 1946, and therein this statement is made:

"Declining variable cost per unit, while logically admissible for theoretical purposes, is probably rarely experienced in any industry, and there is no reason to believe it exists in railroad transport except under extreme conditions of underutilization."

A. Right.

Q. And you could hardly say that we have extreme conditions of underutilization today. So I suggest to you that since you have no disclosing of variable costs per unit, you could never get marginal costs lower than average variable costs, and therefore never to zero?

A. Well, perhaps the point is what was meant by marginal and what is included in your element of costs.

I am suggesting that the cost of adding just one more box car to a train which is nine-tenths full, I mean the train is nine-tenths loaded, does not add very much to the actual cost. It is the sense in which it is used.

Q. You do not use it in the sense that the Canadian Pacific brief do, using out-of-pocket costs?

A. I could not make out how you were using it.

Q. Do you know that the Interstate Commerce Commission has sometimes mixed up average variable





costs and marginal costs in their judgments, because it is a very fine distinction?

A. Quite.

Q. I have about one more point I would like to discuss with you for a moment; but before I go on, I think you referred to this also in the same criticism, oh, yes, of out-of-pocket costs; you referred to a figure of 34.4 cents car mile earnings for grain movement from Port McNicoll to Montreal, and you rather overlooked the question of ton mile costs?

A. Yes. Ton mile costs to me are primarily significant when you are comparing the same commodity, such as where the cost per ton mile is .66 on wheat for a given distance, and where the cost is .55 cents for a part of that distance per ton mile.

Q. I did not want to leave on the record any suggestion, unless you mean it, that ton mile earnings are not at least equally important to car mile earnings.

A. I am afraid I cannot agree that they are.

Q. You disagree?

A. Yes.

Q. That is fine. But at least the Canadian Pacific brief gives them about equal prominence?

A. Yes, you have mentioned both in nearly every reference.

Q. So it would not be fair to leave that suggestion with you that a confusion existed about out-of-pocket costs, and that an inference should be drawn because they have 34.4 cents car mile earnings, and that that was in some way an inconsistent use of the words "out-of-pocket cost"?

A. I think I suggested that I did not know what it meant. To me that 34.4 cents was almost exactly



the same as the average selling price.

Q. Does it not get down to this: let us visualize the kind of train you were comparing in your evidence, or the kind of traffic. You talked about car loadings of 50 tons of grain, and another car loading 5 tons of automobiles.

Let us visualize 100 cars, each car weighing 20 tons without any load, and carrying 50 tons of load. That would make a total tonnage of 7,000 tons.

A. Right.

Q. 100 cars having a tare weight of 20 tons carrying a load of 5 tons would make 2,500 tons, roughly one-third of the total weight.

I suggest to you that one of the prime considerations in the movement of trains in this country is tonnage which the locomotive can haul over a certain line; and I suggest to you that for a given load you might require two or three trains to pull those 100 cars of grain as compared with one train to pull 100 cars of automobiles?

A. I admit that possibility.

Q. So tonnage is a very important element in cost, and in variable costs too.

A. It is a factor, yes.

Q. A very important factor. Let us be fair about this.

A. I do not know how much weight to give to the importance, but it is a factor, yes.

Q. Are you saying it is an unimportant factor?

A. No.

Q. Are you saying it is only a factor, or are



you prepared to agree that it is a very important factor?

A. I do not think it is a very important factor, but I think it is a factor.

THE CHAIRMAN: We shall adjourn now.

---At 1 p.m. the Commission adjourned until 2.45 p.m.

(Page 14935 follows)





AFTERNOON SESSION

MR. EVANS: I have no further questions for my friend, my lord.

THE CHAIRMAN: Anybody else? Then all we can do is thank you, Mr. Brown. Now, what is next? That finishes British Columbia, does it?

MR. BRAZIER: No, I am calling one other witness, my lord.

THE CHAIRMAN: Another witness? Who is he?

MR. BRAZIER: Mr. Kent.

MR. LIONEL P. KENT - CALLED

EXAMINED BY MR. BRAZIER:-

Q. Mr. Kent, you are a member of the Institute of Chartered Accountants, Province of British Columbia?

A. I am.

Q. And you served on the Council of that Institute?

A. That is correct.

Q. And you are a Vancouver partner of the firm of Riddle, Stead, Graham and Hutchison?

A. Yes.

Q. And you have been associated with that firm for twenty years excluding five years that you were in the armed services?

A. That is approximately correct, yes, Mr. Brazier.

Q. During the war period you served as Director of Accounts and Finances for the Royal Canadian Airforce overseas?

A. I did.



Q. And at the end of the war you held the rank of Group Captain in charge of all accounts and finances for the Royal Canadian Airforce?

A. That is correct.

Q. Your firm has offices throughout Canada?

A. They have.

Q. And in Great Britain?

A. They have.

Q. And you are associated with the firm of Arthur Anderson & Company of the United States, with offices throughout the United States?

A. That is correct.

Q. Now, you have acted as financial adviser for the Province of British Columbia throughout the 21 Percent. Case, the 20 Percent. Case, the Mountain Differential Case and the present Royal Commission?

A. I have had that privilege, yes Mr. Brazier

Q. And I understand also that you acted for the City of Vancouver in respect of rate regulation for the British Columbia Electric Railway?

A. That is correct.

Q. And you have recently acted as accountant and adviser to the B.C. Telephone Company and other associated companies on the question of telephone rate regulation?

A. I have.

Q. Is there anything you wish to add to that, Mr. Kent?

A. I think that is quite a full and fair review, Mr. Brazier.

Q. You are responsible for the drafting of



the first ten pages of the further submission made by the Province of British Columbia?

A. I am.

MR. BRAZIER: Mr. Chairman, I am going to ask Mr. Kent to read that into the record, because there may be questions the Commission wish to ask him as he goes along, and I think that is the quickest way. Mr. Kent, would you read into the record pages 1 to 10 of the Submission. It is entitled "Further Submission by the Province of British Columbia". I have additional copies, Mr. Chairman.

THE CHAIRMAN: All right now.

MR. BRAZIER: Q. Mr. Kent, would you now read into the record that part of the Brief?

A. The principal recommendation in the accounting and financial field - -

THE CHAIRMAN: Just a minute.

COMMISSIONER INNIS: What page is that?

THE CHAIRMAN: You said the first ten pages?

MR. BRAZIER: He is probably leaving out the first sentence or so.

THE CHAIRMAN: Yes, I see, the end of the second sentence.

A. That is correct, sir.

The principal recommendation in the accounting and financial field which the Province of British Columbia desires to stress is the advisability of the adoption of uniform accounting regulations for Canadian Railways. It was stated by the Canadian Pacific Railway Company in their Submission to the Royal Commission on Transportation that this subject





can be dealt with by the Board of Transport Commissioners of Canada under existing legislation and that the Board can and do require the Railway Companies to submit periodic reports or any particular information on demand. Whilst the position taken by the Canadian Pacific Railway in that regard may be technically correct, there are two fundamental factors bearing thereon that should be given cognizance. Firstly: there are, at the present time, no uniform accounting regulations laid down by the Board of Transport Commissioners which direct the Railways to maintain their basic accounting records in any prescribed formula, and in consequence of this omission, the reports received by that Board do not provide a sound basis for comparison of the operating results reported upon and thus the measure of control that is capable of being exercised by the Board is sharply diluted. Secondly: at the present time the Board of Transport Commissioners of Canada has not available a technical staff of sufficient size and strength to enable the Board to keep itself apprized of all the current changes in the transportation field as it may affect the finances of the Railways and as it may be reflected by their current reports.

The Canadian Railways adopt the broad classification of accounts as prescribed by the Inter-State Commerce Commission of the United States for the segregation of income and expenditures, but the extent to which the more particular directions of the Inter-State Commerce Commission are applied, varies as between the different Companies according to their own interpretation of the regulations and the purposes that they deem desirable



to serve. In so far as the classification of the capital assets and liabilities of the Canadian Railway Companies, there is even less uniformity between them in the accounts than in the case of the classification of income and expenditures. The auditors of the Canadian National Railway Company in their report covering the fiscal year ended December 31st, 1944 and again, in their report covering the fiscal year ended December 31st, 1946, recommended to Parliament the desirability of the adoption of a uniform system of accounting to be applied to Canadian Railways. For the benefit of the Commission we quote below the recommendation headed "Uniform Accounting Regulations" contained in the 1946 report to Parliament of the auditors of the Canadian National Railway system which, in turn, is requoted from the auditors 1944 report.

MR. BRAZIER: I don't know whether the Commission wish us to read that rather long quotation which follows from the C.N.R. auditors' report. Perhaps Mr. O'Donnell can advise us whether they are going to be placed before the Commission.

MR. O'DONNELL: Well, I will be glad to have them if the Commission wishes them. I haven't any fixed view on the matter at the present time.

THE CHAIRMAN: Go on reading this document.

A. Very good, sir.

UNIFORM ACCOUNTING REGULATIONS:- (quoted from the Canadian National Railways' auditors' report).

In pursuance of our 1944 Report on the above matter, we again recommend to Parliament the early



establishment of Uniform Accounting Regulations for Canadian Railways under the statutory authority of the Dominion. For the convenience of Parliament we quote from our 1944 Report as follows:-

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(Page 14942 follows)





"Having in mind the conflicting elements in the railway situation in Canada and the widespread publicity given to the matter from time to time in the decade preceding the present war, we are persuaded that the uniform presentation of the published accounts of the two major Canadian Railways will be of far-reaching importance in the post-war years to the Government and people of Canada as the shareholders of the National System. Accordingly, we deal briefly with the matter to which we have made reference for several years.

Viewed strictly from an operational standpoint, the published accounts of the two railways have not been subject to proper comparison because of:-

- (a) Difference in the accounting bases as between Operating, Income, Surplus and Reserve Accounts and as between the 'Consolidated' and 'Parent Company' presentation, and
- (b) Disparity in traffic density over the peacetime years, due largely to the difference in purposes of original construction and extension of a considerable portion of the two properties.

We therefore recommend to Parliament the establishment, as early as practicable in the post-war period, of uniform accounting regulations for Canadian railways under the statutory authority of the Dominion.

The recommendation is primarily that, after providing for any special requirements inherent in the ancillary operations of Canadian railways,



these regulations governing the published accounts should follow the broad bases of the Interstate Commerce Commission classification for the United States railways in respect of the accounting allocations to Total Operating Revenues, Total Operating Expenses (suggested to include Depreciation of all Equipment and the larger units only of Depreciable Fixed Properties), Net Income, Surplus and the General Balance Sheet Accounts including specific provisions covering the utilization of Reserves. Whilst the adoption of the broad bases of the Interstate Commerce Commission classification is recommended because of international operations, it is in regard to the voluminous details involved in some of the orders affecting the railways of the United States that we see the desirability of the proposed Canadian regulations differing in policy by simplifying the methods of accounting distribution at the source and by the avoidance of a certain amount of clerical expense.

It is further recommended that the regulations require the published Income Accounts to show the two principal traffic density factors of freight tonnage and passenger volume per mile of road operated.

The main advantage arising from the adoption of the proposed regulations would be the making available to the Government and people of Canada, particularly during periods of public discussion, an improved yardstick with which to measure the relative operating performances (apart from Fixed



Charges) of the two major railways, thus eliminating the misconceptions arising through the endeavour to compare published results which have not been computed on the same basis."

We wish to make clear to Parliament, as we have done on previous occasions to the Railway Committee, that the accounts of the National System are maintained with a high degree of efficiency and that our recommendation is not in any sense an attempt to question the right of the Canadian Pacific Railway to present its accounts to its stockholders in any way it may deem proper within the structure of existing railway legislation in Canada. The present objectives of our recommendation are therefore threefold and relate only to:

(a) The securing to the National System and in turn the Dominion as its proprietor of the assurance, particularly during any periods of economic stress in the Canadian Transportation field and public consideration of the remedies therefor as may recur in the future, that a strictly uniform basis will be effective in the public presentation of the relative operating performances (apart from Fixed Charges) of the two major railway systems in Canada. It has been our publicly expressed opinion for many years that this objective could be accomplished, without prejudice to the respective interests involved, through the medium of accounting regulations prescribed by a department of the Dominion Government vested with authority and facilities for enforcement similar to those of the Interstate Commerce Commission in the United States;





(b) The substitution in Canada of present public reference to the classification of the Interstate Commerce Commission of the United States in respect of the accounting practices of the National System in Canada by future public reference to the Dominion Classification as the basic authority for such accounting, and

(c) The making available to the Dominion of standardized accounting and financial information on Canadian railways, drawn up in strict accordance with its own prescribed regulations, in any consideration it may be called upon to give from time to time in the long-term future in respect of transportation rates and related matters affecting the public interest in Canada."

That is the end of the quotation, sir.

For the reasons given in the above quoted report and for the reasons outlined herein, it would, in the opinion of the Province of British Columbia, be a great step forward in the regulation of Canadian Railways if the Board of Transport Commissioners were directed to formulate rules and regulations prescribing the manner in which accounts for all Railways Companies under their jurisdiction should be maintained. Not the least of these advantages would be that Canada would be in the position of having its own enforceable regulations covering this vital phase of the control of such an important part of the economic life of Canada rather than being in the position of partially adopting the regulations of another country whose transportation problems are not in all respects similar.

The framing of the accounting regulations for Canadian Railways should direct particular attention to



certain of the problems which have beset the Board of Transport Commissioners in determining the criteria of financial need of Canadian Railways. The Province of British Columbia wishes to submit its recommendations regarding those specific problems:

The accounting regulations should make provision for the detailed classification of all items which comprise the assets and liabilities of Companies engaged in the provision of rail transportation in Canada whose activities fall within the orbit of the Board of Transport Commissioners. The classification should provide for the complete segregation of assets and liabilities employed in the furnishing of rail service from all other assets and liabilities of the Company. We will have certain recommendations to place before the Commission regarding this particular phase in a later portion of this Brief. The assets employed in the provision of rail service should be segregated in such detail as is practicable with a minimum requirement of showing each category of depreciable and non-depreciable property separately.

The accounting regulations governing the classification of assets should provide the framework for the classification of all maintenance expenditures as between: (a) additions to capital assets, (b) charges to the appropriate depreciation reserve and (c) charges to maintenance expense under the various sub-classifications.

The provision for depreciation, replacement and retirement is of such magnitude in the operations of a railway that separate specific recommendations are called for dealing with this phase of the subject. It is the recommendation of the Province of British



Columbia that the regulations should contain a specific directive to the Railway Companies on this subject.

The item of depreciation looms so large in proportion to all other maintenance expenses that, unless depreciation is computed on the same formula by all the operating railway companies, that a comparison of the operating results thereof becomes so distorted that they are incapable of intelligent comprehension. It is the recommendation of the Province of British Columbia that after all assets employed by the Railway Companies in the furnishing of railway service are classified as depreciable and non-depreciable, that a maximum rate of depreciation computed as a percentage of cost based on the estimated life (commonly referred to as the straight line method of depreciation) for each class of depreciable assets be established.

(Page 14950 follows)





COMMISSIONER ANGUS: Q. Be established by whom, by the Board?

A. Be established by the Board in consultation with the railway company officers. I think we develop that point later.

THE CHAIRMAN: Q. Then you would leave the Board free to establish or not to establish it?

A. No, sir.

Q. You would compel the Board to establish it?

A. We would direct the Board to establish it.

Q. But by legislation?

A. No, sir, merely to provide legislation under which the Board could act.

Q. Suppose the Board refused to act that way; then what?

A. Then that would be a matter for the judgment of the Board, sir.

Q. Of the Board itself?

A. Of the Board itself.

Q. Then you would leave it to the option of the Board?

A. Precisely, sir; in other words, it is not our thought to write this into a legislative statute, sir.

Q. That would leave the Board free to adopt any method of depreciation which they wanted to, but you think they ought to adopt this one?

MR. BRAZIER: We strongly feel they should adopt this method. I might say we might even take the position that if the Board failed to adopt it we may suggest that amending legislation be passed on this particular subject requiring them to adopt the straight line method.

THE CHAIRMAN: In other words, you think the Board should be required to adopt it?



MR. BRAZIER: Yes, that is right.

THE CHAIRMAN: It should be made statutory?

MR. BRAZIER: I do not think in the first instance.

THE CHAIRMAN: The Board should be given a chance?

MR. BRAZIER: Yes, you see the Board in their last judgment have adopted the straight line method as the one that should be applied to the Canadian Pacific accounts, and we would presume the Board would continue to adopt that same method.

THE CHAIRMAN: You would not suggest that we adopt the Board's present formula and make it legal?

MR. BRAZIER: No, I do not think that is necessary in amending the legislation at the present time.

Q. Will you go on, Mr. Kent, please?

A. It is not our intention that the companies affected should be compelled to charge as an operating expense the full maximum established but rather that the company would have a certain latitude within the general framework as devised. However, if all companies computed their depreciation on the same basis and under the same formula, the effect of percentage differentials very readily could be ascertained. The setting of the maximum rates of depreciation would involve a study of the anticipated life of each of the categories of the depreciable assets. This study would be carried out by the engineers and accountants of the Board's staff in close consultation with the responsible officials of the railway companies. The companies would, at all times, be at liberty to make representations to the Board for a change in rates if, through technological or other causes, the rates as established proved to be inadequate or, in the



event that the railway companies employed new types of equipment or radically changed the use of certain existing equipment, a new rate covering the altered situation could be sought.

It is in that connection that in my view it would be overly restrictive to have this all laid down as a matter of statute but rather in the discretion of the Board of Transport Commissioners or other controlling body.

THE CHAIRMAN: Q. The point is you would argue all this right now before the Board, and they have the power to deal with that, so why are you submitting it to us if we are not to do anything about it?

A. We are submitting it to you because it is not now controlled by the Board. The Board do not issue any accounting directions to the railway companies to direct them to keep their accounts in this fashion. At the present time the Board have, in so far as the Canadian Pacific Railway Company is concerned, assessed the depreciation which that railway company shall be permitted in so far as rate making purposes are concerned, but that is quite a different thing to keeping their accounts in the first instance on that basis.

COMMISSIONER ANGUS: Q. Mr. Kent, you are asking that the Board should be directed to formulate rules?

A. Absolutely.

Q. And that would be a direction by statute?

A. That would be a direction by statute, but not that the rules should be laid down by statute.

THE CHAIRMAN: Q. You leave them free to adopt either method of depreciation, the one followed by the Canadian Pacific or the one followed by the Canadian National?





A. Not under the Board's rules as I envisage them, no, sir. The Board would set out the depreciation formula which all railways would follow. Then there might be certain latitude within the formula devised by the Board.

Q. You say the Board would set out the formula. You mean either formula according to the Board's own discretion?

A. No, whatever rate, but not the formula.

Q. Whatever rate.

MR. BRAZIER: Q. I think the Chairman, Mr. Kent, is wondering whether or not you would provide under the rules that the formula should be the straight line as against the user method?

A. That would be my personal recommendation, yes, Mr. Brazier.

Q. That it should be what?

A. The straight line method of computing depreciation.

THE CHAIRMAN: Q. Suppose the Board said no, we prefer the other; then what?

A. Then that would be a matter for the Board's judgment, sir.

Q. You leave it to the Board?

A. I leave it to the Board.

Q. That is the present state of the law, and if you do not wish any change what is the use of --

MR. BRAZIER: At the present time the Board, Mr. Chairman, cannot, in our submission, direct them to keep their accounts one way or the other way, and that is one of the matters in which we think it is important.

THE CHAIRMAN: You want uniform accounting?

MR. BRAZIER: Yes.



THE CHAIRMAN: Then you get down to the question of depreciation and you then say leave the Board free.

MR. BRAZIER: No, that is one of the points upon which we think it is important for the Board to have the power to adopt -- make them adopt uniform accounting.

THE CHAIRMAN: I know. It would apply even to depreciation; it would include the method of depreciation.

MR. BRAZIER: That is right.

THE CHAIRMAN: But then when you get down to the method of depreciation there are two methods now, and you would leave the Board free to select either?

MR. BRAZIER: That is right.

THE CHAIRMAN: Is that right?

MR. BRAZIER: Yes.

THE WITNESS: But we are urging on the Board the desirability of accepting the straight line method, sir.

THE CHAIRMAN: Yes, you can urge that to them in the proper case.

THE WITNESS: The straight line method of computing depreciation is advocated for a number of reasons and without endeavouring to be exhaustive we submit those that, in our opinion, give to this system the advantages over alternate methods. This is not intended to be a full discussion of this subject as that is available to the Commission in the records of the 30% Case and the 20% Case. However, so that our views may be summarized for the benefit of the Commission, we submit the following cogent points as supporting our recommendation: The straight line method of providing for depreciation offers the best and, we may say the only method, under which a realistic comparison of the amounts charged by the different roads can be made. It is simple of adaptation,



and in the case of different rates being used by different roads, the one can very readily be related to the other. The straight line method will automatically adjust itself to the vagaries of changing price levels as it gives cognizance to the fact that assets are acquired and used over a very extended period during which time the purchasing power of the monetary unit may experience marked changes. The straight line method reduces the estimates which are inherent in all methods of provision for depreciation to its simplest, common denominator, namely; estimated life in terms of years. This method has the added virtue of being more easily scrutinized and thus controlled by a regulatory commission, and the reasonableness or unreasonableness of the resultant charge becomes very much more readily apparent in the case of the application of the straight line method of depreciation than in the case of the various alternates. The provision for depreciation by the straight line method, based as it is on the historical cash cost of the assets distributed over their useful life, excludes the application of a further extremely contentious and, in our opinion, unsound factor, namely; the weighting of the depreciation charge by an element for the estimated replacement values of the assets currently being exhausted in the process of earning the income. It is our opinion that the provision for depreciation on the basis of replacement values is not only unsound per se but that it runs contrary to the basic theory of formulation of rates in a regulated public utility. It is, in our opinion, the function of a utility to provide the capital assets which in turn furnish the service at reasonably remunerative rates and that, shippers should not be





called upon to provide funds from current rates for acquisition of new capital assets, the operating benefits of which they do not enjoy. In conclusion it is the opinion of the Province of British Columbia that in considering this subject the proper function of depreciation, that is, the assessment as closely as possible by annual charges to operations of the cost of the capital assets exhausted in the earning of the income, should be kept uppermost in mind, and it is our opinion that the straight line method provides the best available means of such a determination as this system can be more readily subjected to objective tests.

(Page 14957 follows)



It is the recommendation of the Province of British Columbia that the classification of accounts should be so drafted that the vexed question of rail and non-rail assets is placed on an orderly and settled basis. In our opinion, all assets in whatever form held, whether by way of ownership of the physical chattels or through the medium of shareholders in subsidiary companies, for example, the Toronto Terminals Railway Company and the Canadian Pacific Express Company, utilized in the furnishing of railway service should be classified as railway assets. It would follow therefrom that all income and losses derived from the employment of such assets would be classified as rail income.

THE CHAIRMAN: Have you anything to say about the Consolidated Mining Company, Mr. Brazier?

MR. BRAZIER: We have taken the position, Mr. Chairman, that that is properly "other account".

THE CHAIRMAN: That it should not be considered, one way or the other?

MR. BRAZIER: That it should be excluded from "rail account".

THE CHAIRMAN: That its profits and losses should not be considered?

MR. BRAZIER: In the rail accounting.

THE CHAIRMAN: In the railway rates. All right.

THE WITNESS: The proper distribution of expense, including apportionment of overhead charges as between rail and non-rail income would also be made. To summarize the position taken by British Columbia in respect to the segregation of rail and non-rail enterprises conducted by any one Company, it



may be said that non-rail enterprises can be classified as complementary but not ancillary to the provision of railway service.

The classification of all the multitudinous items of income and expenditure will present certain minor problems for consideration. However, in that connection there would not appear to be any sound basis for disturbing the general format of the existing distributions. To do so would be to sacrifice the great value inherent in long-term comparisons of the history of railroading in Canada. There is, however, one major departure from the existing structure, the feasibility and usefulness of which should be exhaustively explored. It is the recommendation of the Province of British Columbia that the accurate segregation of expenditure as between the passenger and the freight department should be very carefully examined with the end in view of establishing accurate costs of service. The division of expenditure as between passenger and freight and the proper determination of the cost of service are inter-woven subjects, for it is not possible to determine the latter without first segregating freight costs from the whole. The Canadian Pacific Railway Company in its outline submission filed before the Royal Commission on Transportation takes the position in paragraph 63 that it does not believe any useful purpose would be served by adopting the practice of the Inter-State Commerce Commission in this respect (to wit: the practice of keeping their records in such a fashion that freight and passenger costs are separately determinable) for the reason that the Company has no option but to carry on the passenger business regardless of





profitability. This attitude on the part of the Railway Companies which has been expressed on several occasions during the hearings before the Board of Transport Commissioners, in our opinion highlights the need for just such information. That passenger operations are, under normal railroading circumstances today, a heavy source of financial drain, is apparently admitted by the Companies. It is our opinion that the cure for this ailment will never be found unless all parties charged with the solution of the transportation problem in Canada, including the Railway executives, have the best possible knowledge of the extent of the disease. In the event that the rules governing the distribution of expenditures provide for the direct allocation of charges to freight and passenger service to the fullest extent practical, the attainment of the financial results of the respective departments can be very much more readily and accurately produced. The study of freight costs is also thereby greatly facilitated and claims of discrimination can be brought to a satisfactory and final conclusion.

That is the end of that portion of my brief.

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MR. BRAZIER: I would like particularly at this time to make reference to the evidence which Mr. Kent gave before the Board of Transport Commissioners in the 20 per cent case, Volume 813, beginning at page 3219 and continuing to the end of that volume. In that evidence he dealt with this question of depreciation and replacement costs.

MR. BRAZIER: Q. I want to refer you, Mr. Kent, to one statement to be found in the Canadian Pacific brief, Part I, starting at the very bottom of page 120, with the last three words there, and going over to the next page. They are speaking there of Mr. Kent, and they say:

"He also agreed with Mr. Thompson's statement 'that the user basis more correctly reflects annual wastage'".

And they give the page reference as being 3284.

Would you say that that statement correctly interprets -- or did you make that statement before the Board of Transport Commissioners?

THE CHAIRMAN: You refer to the Canadian Pacific brief, Volume I, at page 120?

MR. BRAZIER: That is right.

THE CHAIRMAN: Well, what about it?

THE WITNESS: What I said at that time was this: "It might more correctly reflect current wastage in one particular year, yes, Mr. Evans." That is what I said at that time.

MR. BRAZIER: Q. Which, in your opinion, is quite a different statement from what they have alleged you to have made, in their brief?

A. Fundamentally, Mr. Brazier.

MR. COVERT: I was going to suggest that the

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witness take the other witness box.

THE WITNESS: Yes, the sun is just getting right in my eyes.

THE CHAIRMAN: What are we going to do with this pulpit?

MR. O'DONNELL: Just turn the thing around.

THE CHAIRMAN: If we put the two of them too close together they will start whispering between themselves.

CROSS-EXAMINATION BY MR. FRAWLEY:

MR. FRAWLEY: Q. Mr. Kent, I would like to read a paragraph from the evidence given on the 8th instant by Mr. Morrison:

"As the accounts of the Canadian Pacific Railway have been used as the yardstick in recent rate hearings and because of the nature of the 'requirements' as set out . . ."

I happen to have another copy of this and it might be a little better; it is at page 14441, and the extract is quite short. It might be a little better if I let you see it, starting at the bottom of the page.

"As the accounts of the Canadian Pacific Railway have been used as the yardstick in recent rate hearings and because of the nature of the 'requirements' as set out in the application for rate increases, a method of apportionment of certain of these requirements is necessary."

THE COURT: Now, what was the first thing that you saw?

Q. Yes, I saw the car.

Q. What time was it when you saw the car?

A. I saw it at about 10:30 p.m.

Q. What was the car doing when you saw it?

Q. What was the car doing when you saw it?

A. It was parked on the side of the road.

Q. What was the car doing when you saw it?

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Q. What was the car doing when you saw it?

A. It was parked on the side of the road.



Then there is Mr. Morrison's quotation from the Canadian National Submission which I will skip. It goes on:-

"Because of the merging in a common treasury of all monies which the Company has received by way of funded debt and capital stock, Alberta submits that in the case of fixed charges there must be an allocation and apportionment between rail and non-rail and in the case <sup>of</sup> dividends and apportionment. The reason for such an apportionment is that the monies received <sup>the</sup> from/issuance of capital stock and other securities have been expended in both rail and non-rail activities, and, therefore, the payments in respect of fixed charges and dividends must be apportioned between these two operations of the company."

Now, on the next page:-

"Alberta further submits that the basis of such an apportionment should be the ratio of the total net assets to the net fixed assets of rail and the net fixed assets of non-rail respectively. Such ratio would be used to determine the respective amounts of the fixed charges and dividends to be allocated to each activity."

Do you agree with that statement of Mr. Morrison's, Mr. Kent.?

A. I would agree in part, Mr. Frawley, but to my mind both fixed charges, dividends and surplus are all the same elements of cost in that they represent - -

of the witness box.

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Then there is Mr. Morrison's quotation from the Canadian National Submission which I will skip. It goes on:-

"Because of the merging in a common treasury of all monies which the Company has received by way of funded debt and capital stock, Alberta submits that in the case of fixed charges there must be an allocation and apportionment between rail and non-rail and in the case <sup>of</sup> dividends and apportionment. The reason for such an apportionment is that the monies received <sup>the</sup> from/issuance of capital stock and other securities have been expended in both rail and non-rail activities, and, therefore, the payments in respect of fixed charges and dividends must be apportioned between these two operations of the company."

Now, on the next page:-

"Alberta further submits that the basis of such an apportionment should be the ratio of the total net assets to the net fixed assets of rail and the net fixed assets of non-rail respectively. Such ratio would be used to determine the respective amounts of the fixed charges and dividends to be allocated to each activity."

Do you agree with that statement of Mr. Morrison's, Mr. Kent.?

A. I would agree in part, Mr. Frawley, but to my mind both fixed charges, dividends and surplus are all the same elements of cost in that they represent - -



THE CHAIRMAN: They are all the what?

A. All the same elements of cost in that they represent the cost, or the permitted earning if you like, of the capital required to furnish the railway service. If you are on a basis of fiscal requirements where a company has both rail and non-rail activities, if you are to apportion one part of the cost, namely the fixed charges, then to my mind you must also apportion the other elements representing the same cost, namely the dividends and the surplus.

Q. Thank you, Mr. Kent. Now, will you look at page 9 and there is just one position there which I wish you would elaborate. I have finished with that, thank you, Mr. Kent. It is page 9 of your Brief which you read into the record today.

A. Yes.

Q. I am just asking for a little clarification, and I am just wondering what you mean there. I am sure you can clear it up in a moment. At page 9 at the end of the first paragraph you say:-

"To summarize the position taken by British Columbia in respect to the segregation of rail and non-rail enterprises conducted by any one company, it may be said that non-rail enterprises can be classified as complementary but not ancillary to the provision of railway service."

What distinction are you trying to make there, Mr. Kent? Perhaps you could use one of these activities as an example?





A. Yes, I say that any of their investments, such as the Consolidated Smelters that the Chairman asked me about, may complement the rail activities of the company in that it may provide freight for the company to transport. That would in my view be complementary but it would not necessarily be an ancillary part of the railway service. Does that clear it up for you, Mr. Frawley?

Q. Yes, you say that the Smelters' operation could be termed complementary to the rail enterprise.

A. In that it provides freight.

Q. In that it provides freight?

A. Yes.

Q. Of course a good many other enterprises throughout Canada, not related at all to the Canadian Pacific, also provide freight?

A. We are looking at those with a common ownership only, Mr. Frawley.

Q. You say then, using the Smelters as an example which is owned in the main by the Canadian Pacific, you say it can be regarded as complementary but not ancillary to the provision of railway service. That is why in the case of the Smelters you don't take it into rail, either as to income or assets?

A. That is a correct statement of my position, Mr. Frawley.

CROSS EXAMINED BY MR. EVANS:-

Q. Mr. Kent, am I correctly interpreting your position as being this, that you desire legislation directing that the Board shall establish a uniform system of accounts?



A. Yes, Mr. Evans, and so that there is no question as to their power to establish those uniform accounting regulations.

Q. In other words the statute would direct that the Board shall establish a uniform system of accounts according to regulations it might issue or settle?

A. That is correct, Mr. Evans.

Q. And your point about legislation goes no further than that?

A. Also correct, Mr. Evans.

THE CHAIRMAN: I would call your attention to the fact that we are asked to report on this question of depreciation accounting specifically.

MR. EVANS: Well, there was some doubt - -

THE CHAIRMAN: That is, that we are to review the presentday accounting methods, and it goes on "and upon other related problems such as depreciation accounting".

MR. EVANS: Well, I gathered from this witness - -

THE CHAIRMAN: He does not go beyond a certain limit, advancing arguments that should be addressed to the Board. You leave the Board free to formulate any sort of uniform accounting the Board might think proper, and whether in the matter of depreciation it ought to be straight line or user is up to the Board.

MR. EVANS: That is what I understand Mr. Kent to say. I was not going to ask - -

MR. O'DONNELL: In the Order-in-Council are



you not called upon to report on that?

THE CHAIRMAN: That is precisely what I am saying, Mr. O'Donnell, that we are called upon, but that we are not assisted any further by Mr. Brazier than this: that he recommends that the Board be instructed to provide for uniform accounting and would stop there. He said in that case the Board ought, he thinks, to adopt this particular method of depreciation accounting, but he does not want that to be made binding on the Board. He wants them to make up their own minds about that. He argues the point with us and he will argue with the Board in trying to convince them that they ought to adopt it.

MR. O'DONNELL: I did not quite appreciate - -

THE CHAIRMAN: That does not exhaust our position.

MR. O'DONNELL: No, I understood his suggestion was that you should go further than that in that there would be a suggestion to your Commission as to the recommendation that would go forward from your Commission, what it would be with respect to depreciation accounting, for instance, and these other things.

THE CHAIRMAN: He says, no. I asked him that very specifically. You said you would not recommend any legislation.

MR. BRAZIER: Yes, but I can still envisage, my lord, that this Commission will make certain recommendations to the government.

THE CHAIRMAN: Yes, but the recommendations we make, are made in view of legislation.





MR. BRAZIER: Yes, I mean, will make recommendations which will not be carried out in legislation - -

THE CHAIRMAN: There is no other way they can be carried out. The Government cannot formulate policies in any other way than by legislation.

MR. BRAZIER: No, but we would be happy to leave that to the Government to decide as a result of your recommendation, but we are certainly going to recommend or submit to this Commission that they should recommend to the Government that the user method is preferable for public utilities such as the railways.

THE CHAIRMAN: The user method?

MR. BRAZIER: Yes - I mean straight line.

THE CHAIRMAN: Why recommend it to the Government if the Government has not the power? What can the Government do about it?

MR. BRAZIER: I would submit your Commission has been requested by the Government to report on this very important subject.

THE CHAIRMAN: Yes, and to see what amendments are required to the Railway Act or to any other act. You see, it seems to me it is quite prudent for us to say direct to the Government "We prefer, say, the user method to the other. What about it? What are you going to do about it?"

MR. BRAZIER: I can quite envisage the position that the Government might deem it fit to pass legislation setting forth the type of depreciation.



I am not recommending that they do that.

THE CHAIRMAN: I can only take you at your own word. You say that insofar as legislation is concerned you wish to have it provide that there should be uniform accounting. That you would make statutory?

MR. BRAZIER: That is right.

THE CHAIRMAN: But then the form that the uniform accounting might take in regard to the railways would be left to the judgment of the Board. That is what you said, is it not?

MR. BRAZIER: Yes, generally speaking that is quite correct, but I would still submit to this Commission that they should recommend, for what it is worth, that the straight line method should be used as against the user.

MR. O'DONNELL: Because you are called upon as I read it, my lord, in (d) to report on the advisability of adopting measures conducive to uniform accounting and such matters and upon other related problems such as depreciation accounting, etc.

THE CHAIRMAN: Yes, I know that, and I say that what Mr. Brazier is advancing now through this witness may lead us to suggest that the statute should provide so and so; but he does not go so far as to urge that the statute ought to provide anything. He just says, let the statute provide for uniform accounting and then leave the method to the Board, hoping and expecting that the Board would follow his method.

MR. FRAWLEY: My lord, may I put it this way, because I associate myself with what Mr. Brazier said. Supposing that the Commission came to the conclusion that



it was not a practical thing to write into a statute a directive as to whether the user method or straight line method should be adopted. With respect, I submit that the Commission would not then say:- "Well, we will say nothing about it at all. We cannot find it proper to put it into a statute, so we will just say nothing about it".

THE CHAIRMAN: What are we going to do? Are we going to legislate that the Board is free, but at the same time they ought to adopt a certain method?

MR. FRAWLEY: Exactly, sir, if this Commission state no more than that there should be legislation authorizing and requiring the Board to promulgate uniformity of accounts and then, added to that, "we recommend that the Board in the promulgation of these accounts, adopt the straight line method", speaking for Alberta I would be quite content.

THE CHAIRMAN: Suppose the Board disregard our recommendation?

MR. FRAWLEY: If they did, I would say that would have to be accepted, but I think not. I think after this Commission has sat and listened to these expert opinions, and then comes to a conclusion as to that, that it would certainly be respected and carried out actually.

THE CHAIRMAN: You would not put it into the statute either?

MR. FRAWLEY: No, we take exactly the same position with regard to that.





Q. Now then, on Page 8 you say this:

"The provision for depreciation by the straightline method, based as it is on the historical cash cost of the assets distributed over their useful life, excludes the application of a further extremely contentious and, in our opinion, unsound factor, namely; the weighting of the depreciation charge by an element for the estimated replacement values of the assets -- "

And so on.

THE CHAIRMAN: What page is that?

MR. EVANS: Page 8 of the Brief. Now then, is it your suggestion there without quite saying it that the user basis of depreciation necessarily involves an element of replacement cost?

A. It does not necessarily involve any element of replacement cost, Mr. Evans.

Q. Now then, with regard to Page 9, the segregation of passenger and freight revenues and expenses, that is at the bottom of the page --

A. Yes.

Q. All the purposes in your opinion would be served by segregating the passenger expenses from the freight expenses on the same exact basis that you speak of, the accurate segregation?

A. The first advantage, Mr. Evans, would be that management would have constantly before it as accurate a picture of the financial operations of the respective departments as it would be possible for them to obtain.

Q. Then, the advantage would be that if they found the passenger department losing money, they would increase passenger rates'?



A. Not necessarily, no.

Q. I want to know what you feel would be the real advantage to management or to regulatory tribunals to know more exactly than they know now that the passenger department is losing money?

A. The real advantages involve the extent of managerial control over those losses, Mr. Evans, so that they could do all things within their power to reduce those losses and could, at the same time, watch the effect of their managerial actions in the financial results of the respective departments.

Q. Now then, the method of division which was filed with the Board in the 21 Per Cent Case and, I think perhaps, also in the 20 Per Cent Case --

A. I don't think it became an issue in the 20 Per Cent Case.

Q. Well, at all events, the method of division of passenger expenses and the result of passenger operations was a statistical segregation?

A. That is correct.

Q. And assuming that those statistical segregations showed losses what difference would it make in your view if a statistical segregation should be different by, say, \$100,000 or \$200,000 or \$300,000 in the treatment which you would afterwards give to the passenger fares? Would it make any difference?

A. Your point, of course, being that it was only a measure of refinement. My practical experience on those matters, Mr. Evans, is that if the records reflect these results as a matter of routine rather than as a matter of specific study, the results are more constantly brought to the attention of management for corrective action.



Q. Then, your feeling is that the only advantage to be served is that management would be better able to establish means of saving money?

A. That is one of the principal advantages, yes.

Q. But you are not here suggesting that if there is a loss in passenger business as a result of any segregation of cost, that you suggest that that should be borne in any other way than it is now borne?

MR. BRAZIER: I do not think that is a fair question for my friend to put to an accounting witness.

MR. EVANS: If he says "no" that is all I want to put to him. Will you read back that question?

THE REPORTER: "But you are not here suggesting that if there is a loss in passenger business as a result of any segregation of cost that you suggest that that should be borne in any other way than it is now borne."

A. I am suggesting that the management would be better able to make up their mind as to alternates, Mr. Evans.

Q. You have in mind the saving of money by management?

A. I have in mind the saving of money by management if that is one avenue; the possibility of raising rates if such rates can be raised. That is another avenue but you are not doing all things required to control that loss if it is of such magnitude as we are now led to believe it is.

Q. Supposing you find X dollars lost and you have exercised all of the management's ingenuity in saving expenses, as I assume they must do now, what would you do with that loss under your new segregation of accounts as you propose?

A. That, of course, Mr. Evans, is more a managerial





problem than I care to pass an opinion on.

Q. Then you have no views to express as to whether the rate making of passenger rates would be affected by this segregation?

A. I say it may be; I do not know.

Q. But you do not advocate it?

A. Not necessarily, no.

Q. Now then, I have got just one further question. You spoke to Mr. Frawley in these terms, that if you are put on the basis of fiscal policy you must also apportion dividends and surplus. Now then, I think what you were being asked about there was Mr. Morrison's evidence about apportionment of dividends and fixed charges of the Canadian Pacific for rate making purposes?

A. Yes.

Q. Now, do you agree with the evidence he gave on that subject including his cross-examination?

A. Are you talking about before the Board?

A. No, here.

Q. Well, unfortunately I was not here. I have read it and generally speaking I agree with it.

Q. Now, one more question. If you are to apportion dividends or fixed charges and surplus, what you are going to apportion is corporate dividends, corporate fixed charges and corporate surplus?

A. That is correct.

Q. And that you are going to measure the adequacy of what you are doing on the basis of a fair return on the investment?

A. That would be one measure of the adequacy of the net result produced throughout, always providing that your investment was a proven figure.



Q. Oh quite. Thank you.

THE CHAIRMAN: Any other questions?

MR. COVERT: Have you any questions, Mr.

O'Donnell?

MR. O'DONNELL: No.

MR. COVERT: I have a few, sir.

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EXAMINATION BY MR. COVERT

Q. Mr. Kent, I just wanted to get from you, if I could, your ideas on the treatment of certain assets. For example, I think you have already indicated that in your view Consolidated Smelters would be treated as non-rail?

A. That is correct, Mr. Covert.

Q. And I wanted to get your idea of such things as, for example, inland steamships. How would you treat those?

A. In my opinion inland steamships are merely a continuation of the transportation service and those would fall in the same category as rail transportation or, as I put in the British Columbia <sup>brief</sup> as ancillary to the transportation of goods and services.

(Page 14983 follows)



Q. And you would treat the Canadian Pacific Telegraph Company as rail or non-rail?

A. In my view telegraph communication is such an integral part and used to such a large extent by the rail service that I would categorize them as part and parcel of the rail service, sir.

Q. And even that part of it, for example, such as cable that really might be foreign business?

A. Well, I think there might be a clear distinction as between foreign and domestic business.

Q. And motor bus and truck companies; how would you deal with those?

A. I would say offhand that they were a separate investment made by the railway company, but I think the circumstances of each and the functions which it performed would have to be separately studied before you could give any generalized opinion. That is to say, if one was merely used as a bridge to transport traffic between two railhead points then that might come within the category of a railway enterprise, so it would be very hard to generalize and say that all trucking concerns or investments were either one or the other.

Q. Then you would boil that down to something like this, is it really an operation ancillary to the rail operation?

A. That is precisely the way I would view it.

Q. And then, take the Canadian Pacific Express Company, for example. On that basis you would regard that as a rail operation?

A. I would.

Q. Now, hotels?

A. Well, hotels are not necessarily a part of a railway operation. I think they are complementary. On





the other hand it seems rather illogical if a loss is made in selling meals and space to a passenger whilst he is mobile that the rail service has to absorb it and yet if a profit is made on selling the same passenger meals and bed while he is stationary that the rail is denied any benefit from it. I think generally speaking hotels would come outside the category of providing necessary rail service.

Q. I suppose that is the type of thing on which opinions could change?

A. I think perhaps each one would have to be given careful and particular study rather than being able to generalize on each specific instance.

Q. For instance, one hotel might be properly regarded as a rail enterprise whereas another one might not?

A. I can hardly envisage that situation.

Q. For example, if there was a hotel that was perhaps far away from a rail centre, perhaps connected by bus which the railway did not operate?

A. That might have a bearing on it.

Q. Do you think that might have a bearing on it?

A. It might.

Q. Now, I wanted to ask you about stockyards and grain elevators?

A. Well, again if these stockyards and grain elevators merely held freight that was in process of movement by the railway I would say they would form an integral part of the railway operation.

Q. So the test there is if they form an integral part of the railway operation you would say rail?

A. Correct.

Q. Otherwise non-rail?

A. That is also correct. It would depend so much



on the functions that they played.

Q. What about ocean steamships?

A. My view on ocean steamships is that they are not a part of the rail enterprise necessarily.

Q. Now, I wanted to ask you this. If the revenues were taken into rail earnings should the cost of the relative assets be included in rail investment for determining a rate base?

A. Most certainly.

Q. You would say yes?

A. I have said yes, definitely.

THE CHAIRMAN: What was the last reference there?

MR. COVERT: I asked if the revenues were taken into rail --

THE CHAIRMAN: Revenues of anything?

MR. COVERT: Yes, in any case where revenues are treated as rail.

THE CHAIRMAN: By the company?

MR. COVERT: Or by the Board.

THE CHAIRMAN: Then what?

MR. COVERT: Then would the relative assets which produced those revenues be taken in as rail investment for the purpose of determining a rate base.

THE WITNESS: And for the purpose of determining a rate of return, as I understood it, and my answer is yes.

THE CHAIRMAN: Q. So that in some cases an hotel, for instance, might be part and parcel of the railway investment and in other cases not?

A. In other words, the investment would follow the treatment of the income, sir.

MR. COVERT: Q. Then there is a point that Mr.



Evans discussed with you, and I want to ask another question about it. In view of the decisions of the Interstate Commerce Commission and the Board of Transport Commissioners in Canada to the effect that railways must continue passenger services regardless of whether or not they are carrying their proportion of the expense, I wondered if that does not take away some of the importance of segregating freight and passenger in your view?

A. Segregating accounting-wise?

Q. Yes.

A Not in the least. I think that information is still fundamentally required because it has implications far wider than just producing the financial results of the passenger department. It at the same time segregates the financial results of the freight department and allows sub classifications of the costs incurred within the freight department.

Q. I wanted to ask you two questions on that. First do you think that it might be of some assistance in enabling railways to present a case for the discontinuance of passenger service. Is that one of the things that you might have in mind?

A. As I understand it these requests are judged on the question of public convenience and necessity rather than whether or not they are losing money. It might assist them that it was not worth while from the public standpoint to incur such staggering losses as they were in fact incurring, but I think primarily the yardstick is the numbers of the public who would be affected by the discontinuance of that service.

Q. What I had in mind was something like this, that if the losses were staggering it might be shown that the





passenger service could be provided, for example by bus transportation?

A. That might be one of the logical results that might emerge from it.

Q. Then I wondered if it was because of the cost of service principle which British Columbia is putting forward -- whether that was one of the main reasons why you felt that this segregation should take place?

A. For the adoption of such a principle it would be necessary to make that segregation, yes, Mr. Covert.

Q. There was one further question and it has to do with uniform accounting.

THE CHAIRMAN: Uniform accounting?

MR. COVERT: Yes.

Q. Do you think that would assist materially in comparing the operations of the C.P.R. and the C.N.R., for example, in cases where there are roads of heavy and light density? Would it help in that respect in any way?

(Page 14990 follows)



A. Surely, of course there are fundamental differences between the two; but I certainly think it would assist in any comparison of the operating results of the two roads, and enable the Board to place those comparisons -- I mean the Board of Transport Commissioners; that it would enable the Board to place those comparisons on a proper basis whereby they could assess the relative affects of the lighter or the heavier density traffic.

MR. COVERT: Those are all the questions I had, Mr. Chairman.

MR. BRAZIER: There is no further examination. This is the case.

THE CHAIRMAN: We shall return in five minutes.

---Recess.

---Upon resuming:

MR. COVERT: Mr. Chairman, there are three points that I would like to discuss at this time.

The first is the question of the Crow's Nest Pass briefs. Those briefs have all been submitted and have been in the hands of the Commission for some time as well as in the hands of all the parties. The point I wish to make, so that there will be no misunderstanding about it, is that these briefs are to follow the railway briefs, and at that time complete argument would be made on the Crow's Nest Pass rates once and for all, so that they would not be dealt with in the main argument. We would finish that, so that there would be no repetition. I think that has been indicated once before, but I feel that we had better put it on the record again today.

THE CHAIRMAN: That is quite understood,



then, is it? We have had this particular question of the Crow's Nest Pass rates before us for some time, and there have been specially prepared briefs compiled in regard to it by you, Mr. Frawley, as well as by other interested parties.

We think it should be, considering the remainder of the work we have to do and the consideration of the questions which are on the present agenda, at the foot of the agenda, so when we reach it we desire to dispose of it once and for all; that is, not to deal with it first, that is, with the briefs, and then come back and argue it all over again later.

MR. FRAWLEY: You mean to have the briefs presented and then to have the summing up of the briefs immediately following, with no interruption at all?

THE CHAIRMAN: That is right, on that one question.

MR. FRAWLEY: On that one question, sir, when the railways' case with respect to the Crow's Nest <sup>rates</sup> grain will come along, when Mr. Jefferson presents his brief?

MR. COVERT: Or whoever the witness is.

THE CHAIRMAN: The Crow's Nest case is the last one on this list. All the rest of them have been disposed of before that. Therefore, we intend to go right on and dispose of it, so far as the hearings are concerned, once and for all.

MR. FRAWLEY: But there will be some time, I take it, given us for the summing up, apart from the actual presentation of the briefs?

THE CHAIRMAN: Not for the Crow's Nest Pass case.

MR. FRAWLEY: I mean, for the Crow's Nest

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Pass matter, we will be expected to sum up and argue it immediately on the presentation of the briefs, and there will be some time given for that, perhaps a day or two?

THE CHAIRMAN: Yes.

MR. FRAWLEY: That will be indicated to the Wheat Pools and the West, to those who have filed briefs?

MR. COVERT: Oh, the secretary can send them a copy of today's transcript.

THE CHAIRMAN: What is the second point?

MR. COVERT: In connection with the Canadian Pacific-Canadian National co-operation, I have a letter from Mr. Evans. He had discussed the matter with Mr. O'Donnell and he said:

"It seems to me that since this is a subject involving the two railways jointly, the time of the Commission might be better served by calling the evidence at this time for both railways after the Canadian Pacific-Canadian National evidence has been concluded on all other subjects. I have since had a discussion with our friends of the Canadian National . . ."

THE CHAIRMAN: When you say "all other subjects", you are always making an exception for the Crow's Nest Pass?

MR. COVERT: Yes, that would be right.

"I have since had a discussion with our friends of the Canadian National and they agree with this suggestion. It is also my understanding that you looked favourably upon it as tending to bring together at one time all of the evidence on one subject. I am therefore formally making



the suggestion to you that the witnesses of the Canadian National and the Canadian Pacific be heard after their evidence on the other subjects in their briefs has been heard; and we have asked both the Canadian National and the Canadian Pacific to have their witnesses available for the provinces to cross-examine on this question of Canadian National-Canadian Pacific co-operation; and my suggestion is that at the tail end of the railways' case these witnesses will be made available by the railways to the provinces and the matter will be dealt with all at one time."

MR. FRAWLEY: It is something more than mere availability. They will present to the Commission all they have to say on this subject of Canadian Pacific-Canadian National co-operation. Will that be separately or at the conclusion of each of their respective cases?

MR. COVERT: My understanding was that the Canadian Pacific who are on, will deal with everything except the Canadian National-Canadian Pacific. Then the Canadian National case comes on; and then, jointly, they will deal with Canadian National-Canadian Pacific.

MR. FRAWLEY: You mean, they will come back to it?

THE CHAIRMAN: Well, that seems to be satisfactory.

MR. CARSON: Mr. Covert, does your suggestion mean that that would come in ahead of the Crow's Nest rates?

MR. COVERT: Yes. And then, the third thing is in connection with the final arguments. This matter has been discussed on two occasions; I think once was on December 7 and again on December 16, when the



suggestion was made that the argument would follow immediately after all the evidence was in.

I have been requested by some of the counsel to provide an opportunity to discuss with the Commission the question of some adjournment between the close of the evidence, for the purpose of presenting final argument. I think this would be an opportunity to ask counsel if they had any representations to make to the Commission, they should make them now.

MR. CARSON: Mr. Chairman: I have had some discussion with counsel for the Canadian Pacific Railway about this matter. Our view is that, having regard to the very large volume of evidence that is now before the Commission, and the very large number of exhibits, we feel that some reasonable interval would be necessary if counsel for the Canadian Pacific were to be enabled to present any helpful argument to the Commission.

We have a very large record now; I think it runs about 15,000 pages of transcript. And I am sure the Commission will appreciate that, particularly at the present time, our time is taken up day and night keeping abreast of the evidence, leaving no time to review what went on weeks and months ago.

We feel that in order to present our arguments in an orderly fashion and to marshal the evidence under the various headings that we see on the agenda, it would require a period for reading the record and studying the exhibits and putting it in compact form for presentation to the Commission.

We had a similar problem arise in connection with the 21 per cent case, where, after some 120-odd days of hearings, we had to get ready to present our argument. In that case we had an interval of three





weeks from the conclusion of the evidence to the opening of the argument; and I can certainly say, for Mr. Evans and myself, that that period of three weeks was fully occupied day and night, yes, and week-ends, getting ready to present our argument. In the present case, not only have we the transcript before this Commission, but one would gather from the references made from time to time, that some reference would be made to the evidence given in other proceedings before the Board. So I would feel, considering it all in all, that there should be some reasonable interval allowed between the conclusion of the evidence and the opening of the argument.

THE CHAIRMAN: Do you suggest any particular time?

MR. CARSON: Well, we still have a lot to come in. But looking at it as we see it today and with what we envisage as still to come, I would think that three weeks, under very great pressure, would enable us to do it.

I would personally hope it could be four weeks. I would like to have lifted just a little shade of pressure that we are under because there is going to be a period of about three weeks when I must leave Mr. Evans alone here.

I have got two constitutional cases in the Supreme Court which are fixed for certain dates; one is fixed for a definite date, and the other is to follow two or three cases after that; and those two matters will require me to take about a week for preparation, so that I shall be away from here for about three weeks. I might say that those are commitments which I was under before the Royal



Commission commenced. They are not things I took on after.

But apart altogether from that, if I were asking for some consideration on that account, I would have to ask for more time. However, I am content to take my chance and to work a little harder in order to get through those cases, and I would hope that the Commission might see fit to adjourn, let us say, for three, and, if possible, four weeks.

THE CHAIRMAN: Well, Mr. O'Donnell, have you anything to say about this?

MR. O'DONNELL: My lord, I think that in view of the extent of the record herein, not only the record as at present, but the record that there will be when the matter is completed, what Mr. Carson has just said with respect to a reasonable delay in which to allow us to get the subject-matter into the best possible fashion for the use of the Commission, I submit there should be a reasonable delay.

I have not any fixed views, but I would assume that before we finish the record, it will reach the extent of 20,000 pages, because we have a considerable amount of data yet to come. It is already up around 15,000 or 16,000 at the present time, I think; and the many, many extensive exhibits -- some of which are of comparatively little assistance, but they all have to be reviewed; and in addition, the other two cases which have been so frequently referred to, and they are most extensive -- I would be of the same view, that a reasonable length of time is imperative. Mr. Carson mentioned three weeks, and I do not think that is at all unreasonable under the



circumstances.

THE CHAIRMAN: Has anybody else got anything to say?

MR. BRAZIER: I wish to concur with the views expressed by Mr. Carson and Mr. O' Donnell, that some reasonable length of time would be required. I assume that railway counsel will be under -- will be carrying a heavier load than some of the provincial counsel. But at any rate, it is a difficult matter to prepare an orderly presentation, and it would take some little time to do.

MR. FRAWLEY: The only point at which I have to disagree with my friend Mr. Brazier is when he says that the railway counsel may be under greater pressure than some provincial counsel.

I must say I am in that class, but I shall be under just as much pressure as the railway counsel because, wisely or unwisely, I have spread myself pretty widely over this record and I have attempted to present to this Commission a good deal of detailed information and I have made submissions which require very careful going over and compilation before the final summing up. That is the situation in simple facts. So I would find it very difficult to prepare what I think should be the kind of argument that I need to present in justice to the people of Alberta in three weeks, the length of time which my friend Mr. Carson has suggested.

However, I particularly associate myself with that part of his remarks when he said that he hoped the Commission would do much better for us than three weeks, because at the moment it is impossible to sit down and prepare an argument.

I say that because the evidence of





Mr. Jefferson -- and his evidence is the heart of the case, so far as I am concerned -- has still to be completed; and so, until it is completed, it will be impossible to sit down and prepare my argument.

I know that you are all anxious to finish your work. But in view of the fact that this Commission has been twenty-five years in coming to the people of Western Canada, I know that your lordship will give us the necessary time in which to make our submission. I assure your lordship that we attach tremendous importance to it, and I would ask for a full month, at least, in which to prepare for the argument.

THE CHAIRMAN: Does anybody else wish to speak to this matter?

MR. FRAWLEY: My friends, Mr. MacPherson and Mr. Shepard, are not here. That is too bad. I have been told by one of the advisers to Manitoba that Mr. Shepard, in conversation, certainly is anxious and is expecting a considerable period of adjournment in order to prepare for argument.

(Page 15010 follows)



I think I am not going too far when I say that they will not disagree, that they will not be offended at all if your lordship gives us a good deal of time to prepare for argument.

MR. CARSON: I was just going to say that I never felt so confident that I was making a reasonable suggestion as when I find my friend Mr. Frawley agreeing with me.

THE CHAIRMAN: There must be something wrong.

MR. CARSON: I do want to say that really I did not know that Mr. Frawley was going to be under quite so complete pressure as the railway companies as we have to deal with all the provinces.

THE CHAIRMAN: I am sure no one is disinclined to appreciate the magnitude of the work before us. At the same time, we have been considering this matter and it is quite, I think, beyond dispute that a great deal of the material before us now is in itself argument. That is, we have not been confining ourselves simply to collecting facts but as we go along one question after another has been argued, in some cases I would say exhaustively and in other cases less so.- in most cases more or less-and we will have two or three weeks to follow. I am talking of the month of February. We will have, no doubt, the rest of this month to hear some of that part-argument, part-fact, procedure.

If we were discussing only evidence and it was possible to draw a line between fact and argument, of course the case would be very different. If we had all these volumes of pure fact and an argument to build upon them, I could see that a long adjournment would be necessary to do so. But I feel that the way towards final argument has been pursued quite effectively to date.



Now, the main question, of course, for us, for the Commissioners, is to make up our minds whether we feel that we can benefit the carrying on of our task by allowing counsel to prepare argument, to sort out their argument before us, to stress before us the points to which they attach particular importance. That is, of course, of importance to us too. We had thought at the beginning when we granted this long adjournment (after all, we had an adjournment from the 16th of December to the 6th of February) we had thought then that one of the reasons why we made the adjournment so long was that we felt it would give time for counsel for the various interests before us to prepare their final arguments. I remember I said on the 7th of December, when this matter was suggested before, that our expectation was that <sup>when</sup> we would begin again this new year we would go right on without any intermission and conclude the whole case both as to fact and as to argument.

So that when Mr. Covert first told us that there appeared to be a desire to have a separation between the two and some time left for argument we were at first disposed to think that not necessary. At the same time, we do not wish to do anything which later on we ourselves might perhaps regret. So, I am just saying this, gentlemen, that we will make a final and definite statement Monday morning.

MR. CARSON: Mr. Chairman, may I just say one word on the subject of what happened in the interval from 16th December to February 6th?

THE CHAIRMAN: I know you were not idle.

MR. CARSON: The Judgment of the Supreme Court came out on the 22nd of December and I think our time was





fully occupied getting ready to conclude that rate case, sir, which was the only way to conclude it. I think it was because of the concerted effort that we put in that case that we were able to get through it in as short a time as four days.

MR. FRAWLEY: I also want to add that during that interval we had to prepare our brief on the Crow's Nest Pass Rate and we were scattered throughout Western Canada and one of the men helping me had to go out there and remain there practically the whole time.

THE CHAIRMAN: Anything else today?

MR. COVERT: No, I think we may as well adjourn.

---The Commission adjourned at 4:25 p.m. to meet Monday, February 13, 1950 at 10:30 a.m.



A.R.

*Canada*  
ROYAL COMMISSION  
ON  
TRANSPORTATION

EVIDENCE HEARD ON

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ROYAL COMMISSION ON TRANSPORTATION

Monday, Feb. 13, 1950

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,  
MONDAY,  
FEBRUARY 13, 1950

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN  
HAROLD ADAMS INNIS - - - COMMISSIONER  
HENRY FORBES ANGUS - - - COMMISSIONER

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G. R. Hunter  
Secretary

P. L. Belcourt  
Asst. Secretary

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C.F.H. Carson, K.C.	)	Canadian Pacific Railway
F.C.S. Evans, K.C.		
I.D. Sinclair		
C.D. Shepard	)	Province of Manitoba
M.A. MacPherson, K.C.	)	Province of Saskatchewan
J.J. Frawley, K.C.	)	Province of Alberta
F.D. Smith, K.C.	)	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade
J. Paul Barry		
C.W. Brazier	)	Province of New Brunswick
	)	Province of British Columbia
F.R. Hume	)	Canadian Automotive Trans- portation Association
M.L. Rapoport		

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Ottawa, Ontario,  
Monday, February 13, 1950.

MORNING SESSION

THE CHAIRMAN: On Friday afternoon when we adjourned, I intimated that we would announce this morning what we could see our way clear to do on the question of an intermission between the end of the present work and the argument, if there was to be any intermission.

We have considered the matter very carefully since, in the light of what was said on Friday, and also we have had to consider, of course, other matters which concern the other work of the Commission, and we have come to the conclusion that when we do finish with the present agenda, there will be an adjournment of two full weeks before we resume the argument on the matters before us.

Now, we are through with British Columbia, are we not?

MR. COVERT: That is right, my lord. We are proceeding with the Canadian Pacific Railway's case where we left off on December 16th.

MR. CARSON: And I will call Mr. Jefferson to continue with his evidence, if it pleases the Commission.

-----

MR. C. E. JEFFERSON RECALLED

EXAMINATION BY MR. CARSON (CON.)

Q. Before proceeding with Mr. Jefferson's evidence in I want to present certain data that was requested/the course of his evidence in December. In Volume 67 at Page 13949 Mr. Barry, Counsel for the Province of New





Brunswick, asked for certain data in connection with motor truck and water competitive rates. He asked for a statement that would give the normal rates that would apply if the motor truck and water competitive rates were not in effect. I now have that data to present to the Commission and we will make it available to Mr. Barry. I think that will probably have to go in in the form of an Exhibit. The statement is headed "Canadian Pacific Railway Eastern Canada, Domestic Rates in Cents per Hundred Pounds except as noted".

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EXHIBIT NO. 148 - Filed By Mr.: Canadian Pacific Railway  
Carson. : Eastern Canada, Domestic  
: Rates in Cents per  
: Hundred Pounds Except  
: as Noted.

Q. And, Mr. Jefferson, you have put on that statement the normal rates as at November 1st, 1949, including the 8 per cent increase in respect of certain commodities and certain movements. Am I right in understanding that none of these commodities moves at normal rates?

A. That is right today, yes sir; they move at the competitive rates. That is, at November 1, 1949.

Q. That is the date given in the statement?

A. Yes sir.

Q. Then, in Volume 68 at Pages 14017 and 14018 Mr. Frawley asked for a statement of rates on petroleum and products between points in Eastern Canada/also between points in Western Canada for the examples shown on Page 80 of the Appendix to Part I of the Canadian Pacific submission and you have a statement now on that, Mr. Jefferson, which will be Exhibit 149?

A. Yes.



EXHIBIT NO. 149: Filed by Mr. : Statement of Rates on  
Carson. : Petroleum Products Between  
: Points in Eastern Canada  
: and Between Points in  
: Western Canada.

Q. In one column you show the agreed charge rates as set out on Page 80 of the Appendix to Part I and then in the next column you show the present agreed charge. The statement at Page 80 was dated October 1st, 1949, and I take it that Exhibit No. 149 is going to present agreed charges as at the date of that statement, February 1, 1950?

A. That is right, sir.

Q. And then, opposite that you show the normal rates that would apply if the agreed charge rates were not in effect?

A. Yes sir.

Q. But I take it that none of the movements would be at normal rates because of these agreed charges?

A. Yes sir, unless the shipment were made by some one not a signatory to the agreed charge.

Q. But so far as agreed charge contracts are in effect the movements shown on that Exhibit would be at the rates shown on the present agreed charges as at February 1, 1950?

A. That is right, yes.

MR. FRAWLEY: Does this mean, Mr. Jefferson, that there have been some increases in Alberta between Calgary and Canmore and Calgary and Lethbridge since the 1st of October 1949?

Q. MR. CARSON: That would appear to be so.

A. Yes sir, I explained that in my evidence in December.

Q. There is an increase on the movement from Montreal to Ottawa of one cent and an increase on the



movement from Calgary to Canmore of one cent, and on the movement from Calgary to Lethbridge of two cents?

A. That is right.

Q. Then, at Volume 68, Page 14052, Mr. Frawley asked for a statement on agreed charges on petroleum products from Port Credit and Sarnia, Ontario, to points in Ontario and from Calgary, Alberta to points in Alberta and Saskatchewan and that statement which you now have will be Exhibit 150.

A. Yes.

-----

EXHIBIT NO. 150: Filed by Mr. : Statement on Agreed Charges  
Carson : on Petroleum Products  
: from Port Credit and Sarnia,  
: Ontario to Points in Ontario  
: and from Calgary, Alberta  
: to points in Alberta and  
: Saskatchewan.

Q. And, without examining those comparisons, in detail, Mr. Jefferson, I take it they simply set out factually what the rates are under the agreed charge contracts applicable to those distances as on February 1, 1950?

A. Yes sir, the first column is what we term the Ontario Agreed Charge and the second column the Alberta Agreed Charge.

Q. And the fixing of those agreed charges are controlled by the considerations you have already given in your evidence?

A. Yes sir.

Q. Then, Mr. Jefferson, when we adjourned in December last I had just commenced to take up the subject of Alberta coal to Ontario points and I think I had only put one question to you which resulted in some discussion and just so as to bring the matter back to our recollection, I am going to put that same question to you, if I may, and ask you for your answer. Without reviewing in detail





the history of the rates on Alberta coal to Ontario points, I would like you to tell the Commission if the rate of \$8.00 per ton established following the discussions which took place between the representatives of the Dominion Government, the Alberta Government and the coal shippers and the railways as referred to at the bottom of Page 99 and the top of Page 100 of the Canadian Pacific submission is now in effect?

A. No sir, the present rate is \$8.33 per net ton. The rate of \$8.00 was increased by 25 cents effective April 8, 1948 following the decision of the Board in the 21 per cent Case and by 8 cents,- effective October 11, 1949, as a result of the interim order of the Board dated 24th of September, 1949.

Q. Now, do you know the basis by which the \$8.00 rate was determined?

A. When the \$8.00 rate was established in 1933 --

Q. That is when it was first established, was it?

A. Yes sir -- it represented what was at that time considered to be a fair estimate of the out of pocket costs under normal conditions.

(Page 15020 follows)



Q Now at the top of page 100 of the Canadian Pacific submission reference is made to a letter the railways wrote to the dominion Minister of Mines on the 12th of April, 1933, informing him that they would publish a rate of \$8 per net ton to expire March 31st, 1934. Have you got that letter, Mr. Jefferson?

A. Yes, sir.

Q. Would you please read it to the Commission?

A. This was a letter written by the Canadian National Railways and the Canadian Pacific Railway on the 12th of April, 1933. It is addressed to the Honourable Mr. W. A. Gordon, M.P., Minister of Mines at Ottawa.

"Dear Mr. Gordon:

"A conference was held here to-day between Mr. Stutchbury, Major Pullen and Mr. MacBain" --

Q. Would you pause a moment to tell us who Mr. Stutchbury was?

A. As I recall it he was the coal representative for the province of Alberta. I do not know who Major Pullen and Mr. MacBain were.

THE CHAIRMAN: Can you tell us who they were, Mr. Carson?

MR. CARSON: I think the letter goes on to describe as representing the coal operators of Alberta. The three of them represented the coal operators of Alberta, did they, according to the letter?

THE WITNESS: Yes, but I do not know what companies.

MR. CARSON: Q I should not have interrupted your reading. Will you start over again?

A "A conference was held here to-day between Mr. Stutchbury, Major Pullen and Mr. McBain representing the coal operators of Alberta and the

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undersigned, at which it was represented that the government are anxious, as an emergency measure and to meet <sup>the</sup>/distressed conditions caused by unemployment in the coal producing areas of Alberta, to continue for the period of approximately one year the movement of coal from Alberta to Ontario which has taken place pursuant to the provisions of order in council P. C. 439 which expired on the 15th of March, 1933. It was represented that if the railways were willing to move coal under published rate of \$8 the government would grant a subvention which would enable the coal to move at a rate to the consumer which would ensure the continuation and probable extension of the market. In view of the above representations the railways are willing, if the government so desire, to <sup>the</sup> carry/coal for \$8 per ton provided (1) that this rate is to apply to points on our own rails and not to points on connecting lines in Ontario as to such points there is an out-of-pocket expenditure involved. (2) The rate is to be recognized as an emergency one and will expire at the end of the coal shipping season, 31st of March, 1934. (3) Before the arrangement could be consummated it would have to receive the approval of the Board of Railway Commissioners and be made effective by an adequate order in council protecting the railways against any charge of discrimination either from other coal producers or the shippers of any other commodity. (4) The railways would like the order in council to be prepared in collaboration with their representatives





and the Board of Railway Commissioners.

"Yours faithfully"

That letter was signed by Mr. Alistair Fraser, Acting Vice-President of the Canadian National Railways, and Mr. George Stephen, Vice-President, Canadian Pacific Railway.

Q. And the letter was written from Montreal, and I take it when it refers to "a conference held here" it was a conference held in Montreal?

A. Yes, sir.

Q. Now then, who pays the freight assessed under the present rate of \$8.33?

A. The railways receive payment on the basis of the rate of \$8.33. \$2.50 of that amount the railway collects from the dominion government, and the balance of \$5.83 is paid by the shipper or consignee.

Q. Is the present rate of \$8.33 compensatory?

A. No, sir. At page 84 of the appendix is a statement of the earnings per car, per car mile and per ton mile on coal from representative shipping points in Alberta to Sudbury, Toronto and Windsor.

Q. I understand when this table at page 84 was prepared -- it is dated October 1, 1949 -- the <sup>interim</sup> increase of 8 cents per ton authorized by the Board in its judgment delivered in September, 1949, had not become effective?

A. That is right, yes, sir. As authorized in the judgment the rates on coal from Alberta points were increased by 8 cents a ton which is the same increase as was applied on all domestic coal movements.

Q. Would you be good enough to indicate to the Commission what that table on page 84 shows as it now



stands, that is, dated October 1, 1949?

A. This table at page 84 of the appendix to Part 1 shows the earnings per car, per car mile and per ton mile on coal from representative shipping points in Alberta to Sudbury, Toronto, Timmins and Windsor.

Q. All Ontario destinations?

A. Yes, sir.

Q. Yes?

A. The ton mile earnings range from a low of .36 to a high of .48 per ton mile.

Q. Yes?

A. Even loading to a capacity of 50 tons to the car.

Q. That is net tons?

A. Net tons, yes, sir. The earnings are only 18 cents to 23.9 cents per car mile for distances varying from 1,728 to 2,294 miles.

Q. These mileages and the per car mile earnings are shown on the statement?

A. Yes, sir.

Q. What would be the effect on the range of ton mile and car mile earnings shown in this table of the increase of 8 cents per ton last October?

A. It would increase the per car mile earnings by one-tenth to two-tenths of a cent per car mile, but there would be no appreciable change to the range of the ton mile earnings.

Q. And the 8 cents per ton increase became effective on October 11, 1949?

A. That is right, yes, sir.

THE CHAIRMAN: What date did you say?

MR. CARSON: October 11, 1949.

COMMISSIONER ANGUS: Are the railroads free to



increase the rates?

MR. CARSON: Q. What do you say about that?  
Are the railways free to increase the rates?

A. The railways are free to increase the rate, yes, sir, but it would be by agreement with the producers and the Ontario government.

Q. The Ontario government?

A. The dominion government. The rates are published to expire every year at the end of the coal shipping season, but the dominion government have ever since 1933 asked that the rate be extended for another year.

Q. So that you do not feel you have the freedom to increase them?

A. Pardon?

Q. In the circumstances you have described to Dr. Angus you would not feel you were free to increase these rates?

A. No, sir, not without the agreement of the government. We would certainly confer with them before we would increase them. The government in their estimates each year provide for the payment of the subventions, and when the estimates are passed then the government applies to the railways and asks them that they continue the rate for another year.

Q. I think what Dr. Angus probably had in mind was suppose you put an increase into effect without consulting the government or observing the understanding you had. What would you say about that?

A. There would be nothing to prevent the railways from either refusing to extend the tariff for another year or to extend the tariff at a higher rate, but as I say we would not want to do it without an understanding





with the government.

THE CHAIRMAN: Have we been told what the subvention is?

MR. CARSON: Yes, I think we have.

Q. From what you said I took it the subvention was \$2.50?

A. That is right.

COMMISSIONER INNIS: Q. What does it amount to in the budget?

A. In money?

Q. Yes?

A. Well, it depends on the quantity of coal handled per year. Take the coal year ending the 31st of March, 1949; the Canadian Pacific handled 60,571 tons. I do not know what the Canadian National handled.

MR. CARSON: Q. 60,571 tons?

A. Yes, sir.

Q. In respect of which you received from the government \$2.50 per ton?

A. Yes.

Q. I was wondering whether you could tell Dr. Innis what the total amounted to?

A. I do not know what the Canadian National handled, but I would think they would probably handle as much as the Canadian Pacific.

COMMISSIONER INNIS: Q. We could get these figures from the annual budget statements?

A. Yes, sir -- you would not get it from the estimates but you might get it from the official reports of the Dominion government.

MR. FRAWLEY: The Dominion Coal Board has just put out its first or maybe its second annual report. I



have a couple of copies. I am sure they would be glad to supply sufficient copies to the Commission. It might be filed as an exhibit and it contains all that information, how much <sup>of</sup> it spent to bring Nova Scotia coal to Central Canada and how much <sup>of</sup> it spent to bring Alberta coal to Central Canada. I will get some of those copies.

MR. CARSON: Would that document answer the question Dr. Innis has put as to what the total subvention would be in a given year?

MR. FRAWLEY: Yes, how much money paid is to provide for Alberta coal and how much for Nova Scotia coal.

MR. CARSON: Do you have it in present memory what it amounts to?

MR. FRAWLEY: No, I have not, except that it looks pretty small compared to the Nova Scotia coal.

MR. CARSON: Then, Mr. Frawley, since you have ready access to this may we leave it to you to get this data? Are you saying "Yes"?

MR. FRAWLEY: Yes, I will, although it is data I have not got very ready access to.

COMMISSIONER ANGUS: Q. Did the increases of 25 cents and 8 cents require correspondence with the government to obtain its permission?

A. No, sir, we increased the rates 25 cents and 8 cents in conformity with the decisions of the Board of Transport Commissioners at which time all coal rates were increased by those amounts.

MR. CARSON: Dr. Angus, perhaps this may shed some light on it. In our formal application leading to the 21 per cent increase we made it clear we were making application for authority to increase the rates on coal which would include Alberta coal.



THE WITNESS: Oh, yes, sir..

MR. CARSON: Q. And that notice was served on the Alberta government so that they were parties to the application before the Board when that proposal was made, and the same applied in the case of the application that led to the interim increase of 8 per cent or 8 cents per ton?

A. That is right.

Q. Again we made it clear that the application was to increase the rates on coal, and again the Alberta government was a party to that application, so that it was not anything that was being done apart from the government.

MR. FRAWLEY: I do not know why you are talking about the Alberta government. Did you serve it on the dominion government, the people who pay the subvention? Perhaps they would be more interested.

MR. EVANS: The subvention was not affected by that.

COMMISSIONER INNIS: The subvention remains the same in spite of the increase?

MR. EVANS: Yes.

COMMISSIONER ANGUS: Q. The railways have not asked the government for any greater increase than the 25 cents and the 8 cents. They have not placed this argument before the government?

A. No, sir.

MR. FRAWLEY: Q. You have not told the dominion government the rates are not compensatory?

A. I won't say we have not told them that, no; we have told them.

THE CHAIRMAN: Are these authorized increases,





or either of them, mentioned in the 21 per cent judgment?  
Is that where they are to be found?

MR. CARSON: Yes, I have the formal order.  
Alberta is not mentioned specifically, but in the formal  
order No. 70425, which authorized the 21 per cent increase,  
paragraph 3 states:

"Rates on coal and coke may be increased  
25 cents per ton."

Then in the formal order of last September, No. 45582,  
dated the 24th of September, 1949, paragraph 4 reads:

"Rates on coal and coke may be increased  
8 cents per ton for either single or joint line  
hauls."

COMMISSIONER ANGUS: Then is the last paragraph  
on page 100 to be understood in this way, that this  
Commission is being asked to recommend to the government  
that they do something that the railways have not asked the  
government directly to do?

MR. CARSON: Q. What do you say about that?  
I understand you told the government about the non-  
compensatory character of these rates?

A. Yes, sir, when I wrote the executive secretary  
of the Dominion Coal Board on the 26th of March, 1949,  
my letter in part was as follows --

MR. FRAWLEY: I am sure Mr. Jefferson will not  
mind reading all of it so that we will have it on the  
record.

THE WITNESS: I would be very glad to read  
the whole letter. I just thought it would shorten the  
proceedings. This letter is written to Mr. F. G. Neate  
and reads:



"Dear Mr. Neate:

"Referring to your letter 21st March, addressed to Vice-President, Mr. G. A. MacNamara.

"Instructions have been issued to our western officers to re-issue Canadian Pacific Railway Tariff No. W57-H, extending the expiration date of the \$8.25 per net ton rate on coal from Alberta to Ontario to 31st March, 1950, unless sooner cancelled, changed or extended.

"As you of course know, the special rate on coal from Alberta to Ontario since its inception in 1933 of \$8 per net ton has only been increased 25 cents per ton which became effective in April of 1948. This increase was approximately 3 per cent. The \$8 rate when published did not pay what are termed 'inclusive costs', in fact it would be my understanding that it would represent what are known as 'out-of-pocket costs'. Everyone knows that costs have increased much more than 3 per cent since 1933. In the circumstances it is our opinion that this matter is one that should receive the attention of the railways to determine, in the light of present conditions, what the rate on coal from Alberta to Ontario should be to accord the railways either 'out-of-pocket costs' or 'inclusive costs', or something between the two."

MR. CARSON: Q. Mr. Frawley has asked me to inquire about what the letter written two or three days before had to say. Have you got that letter?

A. The letter that this was in reply to?

Q. Yes.

A. Yes, sir, I have that here.

Q. Mr. Frawley would like to have that.



A. It was just a letter asking that the tariff be extended. The letter which was written by the Dominion Coal Board on March 21, 1949, read:

"Would you please refer to the letter dated March 29, 1948, from your general traffic manager with respect to the re-issue of the tariff to cover the movement of coal from Alberta to the province of Alberta for the fiscal year.

"Since provision has been made in the estimates for the next fiscal year to continue subvention assistance on the above movement from Alberta to Ontario, it would be appreciated if you would re-publish Tariff C.P.R. No. W57-H which expires on the 31st of March, 1949."

MR. EVANS: Perhaps I can clear up what seems to be a doubt in Dr. Angus' mind. I do not think you will find in the brief any recommendation that the Commission take any action in connection with these rates, but they are incorporated in a section of the brief that defends competitive rates on the ground that in large measure they are compensatory by showing that these non-compensatory rates are rates that have nothing particularly to do with competition. There are examples given of the one kind of rate affected by competition that is non-compensatory, and that is the rate to West St. John from the bay ports. There are also rates on coal and rates on the movement of grain. These were to show that the so-called give-away rates are very largely in western Canada, and they are rates that are not in the main competitive rates.

COMMISSIONER ANGUS: My difficulty is this. The final paragraph reads:





"Canadian Pacific submit that a subsidy should be paid to the mine operators and freight rates should be allowed to find their compensatory level." I am told there is nothing to prevent the railways from putting these rates up to a compensatory level except the feeling that they ought to get the permission of the government first.

MR. EVANS: Yes.

COMMISSIONER ANGUS: Are we being asked to recommend that the government should give that permission? Is that the meaning of this paragraph?

MR. EVANS: It was not a part of our submission that you should, but I think there is tucked into that paragraph a suggestion that the theory under which the subvention is paid, that is to say, a subsidy on transportation, is bad, and that if there is to be a subsidy it should be paid directly to the mine owners. Beyond that we do not ask that this Commission make a specific recommendation because, as you point out, it is something that perhaps lies between us and the government. It does not call for legislation.

THE CHAIRMAN: I suppose it is a part of your general position that instead of subsidizing railways the government should subsidize the producer?

MR. EVANS: Yes, plus the fact that in view of the suggestion that certain rates are not compensatory we wanted to disclose where we thought rates were not compensatory.

COMMISSIONER INNIS: Why do you take this attitude, because it is easy to administer?

MR. EVANS: On the question of subsidy?

COMMISSIONER INNIS: Yes.



MR. EVANS: We think that subsidies paid to the railways in respect of transportation are wrong in principle.

COMMISSIONER INNIS: Why is it not wrong in principle to pay it directly to the producer?

MR. EVANS: Because then you have a specific producer or industry, and we have nothing to do about that, nothing to say about that, but we think it is wrong to subsidize transportation because a lot of people interpret that as meaning a subsidy paid to the railways whereas it is really a subsidy paid to the producer. We think you should not cloak that under what appears to be a subsidy to the railway.

COMMISSIONER INNIS: You do not like it because of the way it is interpreted by the public?

MR. EVANS: Yes, and we dislike it because it is a subsidy.

MR. MacPHERSON: To the railway.

MR. EVANS: My friend Mr. MacPherson points that up the right way because he interprets it as a subsidy to the railway.

(Page 15035 follows)



THE CHAIRMAN: I suppose you say it is something made for the benefit of the producer and the consumer?

MR. EVANS: Yes.

COMMISSIONER INNIS: From the standpoint of the Government, is it not much simpler to administer than from the standpoint of the mine owners?

MR. EVANS: That may be.

COMMISSIONER ANGUS: The recommendation in this final paragraph, the one which has just been mentioned, that subsidies should be paid to the industry, what have you to say about that and with respect to the second point, that rates should be higher than they are?

MR. EVANS: There is no doubt about that; we think the rates should be higher than they are; but we do not think we should ask you to make a recommendation to the Government that they pay a higher subsidy. We would not object to such a recommendation by you; but, to be consistent, we would not ask for it.

MR. CARSON: Q. Would you tell the Commission, Mr. Jefferson, your view as to whether these Alberta coal rates are at present compensatory?

A. That is right; the rate of \$8.33 is, in my opinion, not compensatory; it does not pay sufficient revenue to meet out-of-pocket costs.

When the rate of \$8 was first established in 1933, it represented only out-of-pocket costs, which were developed from a study made at that time.

It is true that the study of the out-of-pocket costs in 1933 represented somewhat more than bare out-of-pocket costs in that year, since an attempt was made to recognize that the costs in that





year were below normal, owing to the depression.

Nevertheless the studies were intended to develop what could be considered as normal out-of-pocket costs in the light of information then obtainable.

Q. What effect the recent increase in the cost of operation has on these rates?

A. It is a well known fact that expenses, both for labour and materials have greatly increased. No one could have foreseen at that time the extent of these increases; and I am satisfied that if the matter were again studied, and under present conditions, it would be found that the present rates on Alberta coal are substantially below out-of-pocket costs, even though the present rate represents an increase of 33 cents per ton, or about 4 per cent above the original rate of \$8 per ton.

The normal rate on coal from, let us say, the Drumheller field to Toronto is \$12.70 plus 33 cents. That would be \$13.03 a net ton.

Q. Yes. Would the cars in which the coal would be shipped from Alberta to Ontario be returned to Alberta loaded or empty?

A. The cars would be returned empty.

MR. FRAWLEY: Q. For the record, I was wondering; Mr. Jefferson mentioned out-of-pocket cost study made by the Board. It is all reported in the J.O.R. & R. of the Board. Perhaps if Mr. Jefferson had it, the Commission might like to read it.

A. There are a number of them, Mr. Frawley.

Q. They were made all at the one time in 1931 or 1933?



A. The latest one was made in February, 1933, and that is a report of the Board of Transport Commissioners. I have the J.O.R. & R. reference; I <sup>not</sup> merely have the pamphlet of the Board.

MR. EVANS: Q. They sometimes remark, on the front page of the pamphlet --

A. I beg your pardon?

Q. No, this is not one.

A. No, it is not one. I have not the reference.

COMMISSIONER INNIS: Your view about the payment of subsidies on coal would be consistent with your view concerning the payment of feed grain assistance, in the same way?

MR. EVANS: All subsidies, if they are to be paid in respect of the production and transportation of a commodity, should be in relief of the producer or consumer, as the case may be, and should be paid to him and not to the railways.

COMMISSIONER INNIS: Has the Government ever accepted that principle?

MR. EVANS: I am afraid I could not tell you.

COMMISSIONER INNIS: In the main, they have paid them to the railways rather than to the producers?

MR. EVANS: Yes; and the Maritime Freight Rates Act is one of the pieces of legislation wherein it is applied; and that is our objection to it, the objection we have to the Maritime Freight Rates Act.

THE WITNESS: All other subventions on coal made by the Government are paid direct to the operators and not to the railways. This is the only one that I know of which is paid to the railways.

MR. EVANS: Yes.



THE CHAIRMAN: Those are subventions made just on the production, regardless of the transportation?

MR. CARSON: No.

THE CHAIRMAN: You say there are other subventions?

THE WITNESS: Yes.

THE CHAIRMAN: Q. Which are paid to the producer of the coal?

A. Yes.

Q. By the Dominion Government?

A. Yes, sir. They are not made on the entire production of the mine, but are made on certain movements from the mine.

Q. On certain movements from the mine?

A. Yes, sir.

Q. What sort of movements? What have you in mind there?

A. Take Alberta coal. I understand there is a subvention on bituminous coal shipped from Alberta to points in Western Ontario, that is, Western Ontario for railway use; that is not for commercial use.

Q. For railway use?

A. Yes, sir.

Q. Well then, do those shipments also come within the provisions of these subventions here which go to the railways? I mean the \$2.50 per ton?

A. Oh, yes.

Q. You say that on the movement of coal from Alberta mines to Ontario for the use of the railways --

A. Yes, sir.

Q. A subvention from the Dominion Government is paid to the coal producer?





A. Yes, sir.

Q. Does it also receive the other subvention paid to the railway?

A. Oh, no, sir.

Q. Perhaps we could find out more about this distinction.

MR. FRAWLEY: It is all pretty well set out in the report of the Dominion Coal Board.

COMMISSIONER INNIS: Is it your contention that there is a conflict also in the Coal Board?

MR. FRAWLEY: No. They are all transportation subsidies whether they be paid directly or indirectly.

COMMISSIONER INNIS: But is there not a conflict with respect to their administration?

MR. FRAWLEY: Oh, yes.

COMMISSIONER INNIS: In some cases they prefer to pay the railways, whereas in other cases they are paid to the producers?

THE WITNESS: Yes, sir. Take Nova Scotia coal, for example, there is a subsidy there.

THE CHAIRMAN: Which is paid to the producer?

MR. FRAWLEY: Which is paid to the producer, for the purpose of getting that coal to Toronto, and as in the case of Alberta coal, it is a transportation subsidy. There is no disagreement about that. I am sorry I did not bring along my copy of the Dominion Coal Board report, but I shall try to get some here for this afternoon, because I think it explains this matter very well.

THE CHAIRMAN: Is there any real reason for this distinction in the difference of treatment?

MR. FRAWLEY: There may be in the Coal Board for administration purposes; it may be easier in the



way of operation.

COMMISSIONER INNIS:.. You mean: that it is easier to pay the railways?

MR. FRAWLEY: Probably; while in other circumstances it is easier to pay the producers. Mr. Jefferson objects to the subsidy being paid on Alberta coal to the Toronto market. If the Dominion Government is going to help to get that coal into Ontario, then what does it matter if the cheque is paid to the Canadian Pacific Railway or is sent out to the Alliance Coal Company in Drumheller and is then turned over to the Canadian Pacific Railway? What is the difference?

THE CHAIRMAN: In a given case on shipments to Ontario, in one instance they pay the railways and in the other instance they pay the producer?

MR. FRAWLEY: On the railway coal?

THE CHAIRMAN: Yes.

MR. FRAWLEY: Q. On the railway coal there is a different method of paying the subvention?

A. Oh, yes.

Q. It would be interesting to find out what the essential difference is. I am sure there must be some reason. I think that Mr. O'Brien of the Dominion Coal Board would be glad to come down here and explain it for us.

MR. CARSON: I thought you said you had the report at home which would explain it?

MR. FRAWLEY: I did not say it was at home.

COMMISSIONER ANGUS: Is the payment which is made direct to the railway linked up in any sense with the rates which the railways charge?

MR. CARSON: I beg your pardon?



COMMISSIONER ANGUS: Is the fact that the payment is made to the railway in any way linked up with the fact that it arose out of the rates which the railway charges?

THE WITNESS: I dare say that is a fact; but we must bear in mind that the Board of Transport Commissioners took the position that our normal rates were reasonable on coal. But from negotiations which took place between the railways and the Government, the \$8 rate with the subvention of \$2.50 was agreed to for a temporary period of a year, and it has been continued from year to year ever since.

MR. CARSON: Your present position arises out of a bargain which was made in 1933?

A. That is right.

MR. FRAWLEY: Q. The Board said that your \$12 rate was a reasonable rate?

A. Yes.

MR. CARSON: \$13.03.

MR. FRAWLEY: Q. \$13.03 as it is now; and that would move a lot of coal out of Alberta.

A. It is all in the record.

MR. CARSON: Was there not a Royal Commission which spent a couple of years on coal?

MR. FRAWLEY: More than that.

(15045 follows)





MR. CARSON: Q. I think what you said about this coal or the reimbursement from the Dominion Government to the railways, has been continued from year to year since 1933?

A. Yes sir.

Q. And would you just tell the Commission in a general way in what manner it is done, how it is carried out?

A. This is done on applications received from the Dominion Fuel Board which obtained authority from the Dominion Government to continue payment of this subvention. The Canadian Pacific was requested in March last to republish for another year the tariff which was to expire on 31st March 1949.

Q. Would that be right (I am questioning the March 1949) to republish for another year the tariff which was to expire on 31st March 1950, wouldn't it be?

A. No, no, we published the tariff which was to expire on 31st March 1949.

Q. Yes, expiring 31st March 1949. They were asking you to extend it for another year.

A. To the end of March 1950.

Q. And that, you told us, you consented to do, though you protested that the rates were too low.

A. That is right.

MR. FRAWLEY: Protested? Just wrote a letter.

MR. CARSON: Q. Now, I want to go next to the subject of international rates which are dealt with in Part I of the Canadian Pacific submission at Pages 101 - 108, and are dealt with in the outline submissions, paragraphs 52 - 53. Now, what is the



position of the United States and Canadian Railways as to negotiating through international rates?

A. I think that could best be answered by my reading about three pages commencing on page 101 of Part I of this Company's submission.

Q. Well now, would you do that then, Mr. Jefferson?

A. Canadian Pacific is at all times prepared to negotiate with its United States connections for the establishment of through international rates where necessary to permit the products of Canada to reach the markets of the United States.

The position of the United States railroads is the same in that they are continually negotiating with the Canadian railways for the establishment of through rates in order to permit the products of the United States to reach the markets of Canada.

In establishing joint international rates, due regard must be given to the level of rates and local conditions applying within each country.

Any suggestion which would in any way interfere with the freedom of both the United States and Canadian carriers in these negotiations would, in the opinion of Canadian Pacific, be a backward step and would greatly hinder, rather than help, industry in Canada in obtaining fair and reasonable rates to permit its products to reach United States markets.

Through international class rates are in effect between Eastern Canada and Official Classification Territory in the United States (east of the Mississippi and north of the Ohio Rivers to the Atlantic seaboard).



No through class rates are in effect between Eastern Canada and points in southern, western or southwestern territories in the United States, except to certain territory in Minnesota-Wisconsin.

No through class rates are in effect between Western Canada and points in official, southern, southeastern or western territories in the United States, except certain territory in Minnesota-Wisconsin.

The through international class rates between Eastern Canada and official territory were made with relationship to the rates prescribed by the Interstate Commerce Commission for application within official territory of the United States. Such international rates were based on 110% of the United States rates 1st Class. The 5th and 6th Class Rates are higher percentages of 1st Class than rates generally in the United States.

The amount by which the international rates were in excess of the United States rates was altered in 1947 when the Interstate Commerce Commission, in Docket 28300, ordered an increase of 10% in the class rates within official territory, which increase was not applied to the international rates.

Through class rates between Eastern Canada and official territory of the United States have been in effect for a great many years on no uniform basis, and effective March 3rd, 1938, after many conferences between the Canadian and United States railways and shippers' organizations in both Canada and the United States, a uniform basis of class rates was established. This is related to the United States class rates and subject to the modifications





referred to in the second preceding paragraph.

Through class and commodity international rates on import and export traffic are in effect between Canadian ports and United States points, as well as between United States ports and points in Canada, where necessary.

Through commodity rates are in effect on a large number of commodities between points in both Eastern Canada and Western Canada on the one hand and points in the several territories of the United States on the other.

In publishing joint through international rates, the general policy of the United States railroads is that they will not agree to through rates from origins in Canada to destinations in the United States on a lower basis than is applicable on the same commodity within the United States.

Likewise, the Canadian railways adopt a similar policy with respect to rates from origins in the United States to destinations in Canada.

(Page 15050 follows)



COMMISSIONER ANGUS: Does the "similar policy" mean on a lower basis than is applicable on the same commodity within Canada, or does it mean within the United States?

A. You mean the paragraph where it says "likewise"?

Q. Yes.

A. "Likewise, the Canadian Railways adopt a similar policy with respect to rates from origins in the United States to destinations in Canada".

Q. Yes.

A. We would not want to make rates from the United States to Canada lower than between two points in Canada for similar distances. Otherwise it might disturb the Canadian manufacturer.

Q. Yes, therefore - -

A. It is just the reverse of the preceding paragraph, yes, sir.

It is obvious that such a policy is necessary, otherwise manufacturers or producers in either country would be placed at a transportation disadvantage in marketing their products at points in their own country. Through international rates, therefore, are established by direct negotiations between the United States and Canadian Railways at the request of shippers or receivers in either country.

It was stressed at hearings before your Commission that through international class rates are in effect between Eastern United States and Eastern Canada, whereas no full line of class rates is in effect between points in Western United States and Western Canada.



The volume of traffic moving at class rates between points in Eastern United States and points in Eastern Canada is much greater than between points in Western United States and Western Canada. There is not the same necessity for through international class rates between the western territories as between the eastern territories and there is no more necessity for through class rates between Western United States and Western Canada than between points in both Eastern and Western Canada and points in Southern, Southwestern and Western United States.

Furthermore, commodities produced in Western Canada and moving in any volume to points in the United States are covered by through commodity rates.

MR. CARSON: Q. Now, I think you have a statement listing the tariffs which publish through commodity rates from points in the Prairies to points in the United States?

A. Yes sir.

Q. That would be Exhibit 151.

. . . EXHIBIT 151:- filed by Mr. Carson.  
Statement listing the tariffs  
which publish through commodity  
rates from points in Prairies to  
points in the United States.

Q. That Exhibit consists of seven pages, and what does it show, Mr. Jefferson, speaking generally?

A. Well, this Exhibit shows the southbound commodity tariffs on sheets 1 - 3 and northbound commodity tariffs on sheets 4 - 7, showing the commodity, the territory of origin, and the destination, with the tariff reference. The statement shows the substantial number of tariffs in effect publishing





through rates between points in Western Canada and points in the United States. Some of the tariffs are quite large and cover considerable territory, though I might draw to the Commission's attention the southbound sheets 1 - 3, where we have rates on coal, the first item, from Alberta and Eastern British Columbia shipping points to Idaho, Oregon and Washington. We have many lumber tariffs, from Western Canada to points in the United States, live-stock tariffs, paper tariffs, grain and grain product tariffs; and then at the lower part of sheet 3 there are a number of tariffs which just show under the commodity columns, various commodities, or there are many commodities in those various commodity tariffs; but they cover more specific movements, that is, movement from one or more points of origin to one or more points of destination, but not from all points.

(Page 15053 follows)



Now, sheets IV to VII show the northbound commodity tariffs -- coal and coke, fruit and vegetables and petroleum products, sulphur, and then also various commodities.

Q. Now, Mr. Jefferson, the other day, I think it was on the 7th of February, in Volume 70 there was quite a bit of discussion about international rates. I am not quite sure to what extent the Commission wants to enquire into that while you are in the box, but it was suggested by Mr. Covert that the Commission had not quite got complete information about international rates that was needed and that there were quite a few points not quite settled. That appears at Page 14375. Mr. Sinclair had read a statement to the Commission commencing at 14361. Now, are you familiar with the statement that Mr. Sinclair read, Mr. Jefferson?

A. Yes, sir, I prepared it.

Q. You prepared the statement?

A. Yes, sir. That discussion, Mr. Carson, had reference to increasing international rates at the same time and to the same extent as rates were increased within the United States.

Q. Yes, and I think some enquiry was made as to why it was necessary to have the international rates increased by order of the Board of Transport Commissioners implementing orders of the Interstate Commerce Commission when they were authorizing rate increases?

A. Yes, sir.

Q. Can you tell the Commission something about that, please?

A. Yes, sir. I won't read the statement that Mr. Sinclair read as it is contained on Pages 14361 to 14385 of Volume 70 of the proceedings but I would like to emphasize that the orders of the Board which Mr. Sinclair



made reference to, that is the Board of Transport Commissioners Orders 71774 of the 31st December, 1948, and 72905 of the 12th of August, 1949, contained a paragraph reading:

"And whereas it is deemed by the Board to be expedient in the public interest that the continuity of joint through rates from points in the United States to points in Canada and vice versa and the maintenance of the parity of port relationships should be preserved.:

Q. That is a quotation you have just given from those Orders?

A. Yes, sir. Now, it seems to me --

Q. Just a moment, Mr. Jefferson. I am told we have the complete Orders here and rather than take time to read the whole Orders, it might be convenient if we filed those orders as Exhibits?

A. Yes, sir.

Q. The first one is 71774 and that will be Exhibit 152.

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EXHIBIT NO. 152: Filed by Mr. : Board of Transport Com-  
Carson. : missioners Order No.  
: 71774, dated 31 December,  
: 1948.

Q. (con) And the second one is 72905 which will be Exhibit No. 153?

A. Yes sir. Filed by Mr. : Board of Transport Com-  
Carson. : missioners Order No.  
----- : 72905, dated 12 August,  
: 1949.

EXHIBIT NO. 153:

Q. And the recital you have just read, Mr. Jefferson, appears in Exhibit : 152 as the third recital paragraph. It is not numbered but it is the third recital paragraph, and a recital to the same effect is to be found in the





subsequent Order in the fourth recital paragraph?

A. That is right.

Q. Now, I am sorry I interrupted what you were going to say. I think it would be helpful if the Commission had these Orders before them?

A. I think it would be helpful if I should next read two pages from Part I of this Company's Submission.

Q. What pages are those?

A. The bottom of Page 106 to the bottom of Page 108:

"As already outlined herein, the through international rates are made with relationship to the rates applicable within the United States. The through international rates have, therefore, always been subject to the same general increase as made in the United States rates.

In general increases in freight rates, the United States railroads also petition the Board of Transport Commissioners for authority to increase the international rates --"

THE CHAIRMAN: You mean the Canadian Board?

A. The United States railroads also petitioned the Board of Transport Commissioners, yes, sir:

"for authority to increase the international rates pointing out that the conditions which call for and necessitate an advance in rates within the United States apply equally to international rates.

The same increases in international rates as made within the United States are necessary to permit the continued orderly movement of international traffic.



The Board of Transport Commissioners for Canada, in their orders granting authority to increase the international rates to the same extent as authorized by the Interstate Commerce Commission within the United States have pointed out that it is deemed by the Board to be expedient in the public interest that the continuity of joint through rates from points in the United States to points in Canada, and vice versa, and the maintenance of the parity of port relationships, should be preserved.

Without uniformity of rate increases, the port relationships as between Canadian and United States Atlantic ports would be disrupted.

If the international rates between official territory and Eastern Canada were not increased to the same extent as rates within official territory, the rates between United States points and the border points in the United States would be higher than the through rates to or from points over the border in Canada.

If through international rates were not increased to the same extent as within the United States with authority of the Interstate Commerce Commission and Board of Transport Commissioners for Canada, the United States railroads would find means by which the through rates could be so increased and retain all of the increase for themselves. This would be no saving to the shippers or receivers in Canada, but would deprive the Canadian railroads of their share of the increase.



United States producers of commodities which are likewise produced in Canada would object to their rates being increased if no increase was made on like products from Canada, as the rates from Canada to the United States would be lower than rates within the United States. An example would be newsprint paper from Millinocket, Me., and other Eastern United States mills to large consuming centres in the United States compared with the movement from Eastern Canadian mills to the same destination. This would also apply to lumber, woodpulp and other products. The United States shippers would not accept such a situation.

It would be impossible to apply increases authorized within the United States only to the portions of the through international rates accruing to the United States lines south of the border. In addition to the disparity which would be created as between the international and United States rates, a chaotic situation would be created inasmuch as the proportions accruing to the United States lines through the numerous gateways are different and, in fact, vary even through the same border gateway. For example, beyond the Windsor-Detroit-Port Huron gateway to St. Louis, Mo., there are a large number of different routes in the United States and the proportions vary according to the different routes. Furthermore, in some cases the Canadian lines operate south of the border into the United States and in other cases the United States lines operate north of the border into Canada."





MR. CARSON: Now, has this matter been the subject of consideration and decision by the Board of Transport Commissioners or their predecessors, the Board of Railway Commissioners? I was thinking of some of the decisions.

A. Yes, sir.

THE CHAIRMAN: Would you please repeat that?

MR. CARSON: I was asking Mr. Jefferson if this matter of increasing the international rates following increases in the United States had been dealt with by the Board of Transport Commissioners in its Decisions, and I think you have some Decisions there, Mr. Jefferson, which you want to refer to, unless there was something you wanted to say before we came to those Decisions?

A. Well, I did want to mention one or two points. I did want to say first, that the practice followed with respect to increasing international rates at the same time and to the same extent as in the United States also applies in the case of general reductions in the United States. As an example, in 1922 there was a general reduction in rates in the United States, and at the same time there was a similar reduction in international rates. In other words, if the international rates had not been reduced at that time, it would have been unfair to the Canadian shippers to have had the rates reduced within the States and not from Canada to the United States.

THE CHAIRMAN: Has there been any other reduction than the one of 1922?

A. Not since 1922, no, sir. Now, I wanted to point this up where I mentioned in reading here from



Pages 106 to 108 that if the through international rates were not increased to the same extent as within the United States, the United States railroads would find means by which the through rates could be so increased, and retain all of the increase for themselves.

Now, in 1931, in what was known as Ex Parte No. 103, 178 I.C.C. 539, the Interstate Commerce Commission --

MR. CARSON: 178 I.C.C. are the reports of the Commission where that Decision is to be found at Page 539?

A. Yes, sir.

THE CHAIRMAN: Ex Parte 103?

MR. CARSON: Ex Parte 103 and it is reported at 178 I.C.C. Page 539. I think it runs to Page 590?

A. That is right.

Q. Now, what did they do there?

A. At that time the Interstate Commerce Commission authorized an increase in rates within the United States and on international traffic by specified amounts per 100 pounds or per car. At Page 589, the Decision contained the following provision:

"Joint Rates, the Rate from Foreign Countries".

Q. That is the heading?

A. Yes:

"It is not intended to increase the proportion of joint through rates to or from points in foreign countries accruing for the transportation in such foreign countries. The proportion of such rates accruing within the United States, may be increased to the extent herein approved for domestic rates."



Q. Now, was the action that was taken by the United States railroads under authority of the Interstate Commerce Commission that you have just mentioned acceptable to the Canadian railways?

A. No, sir, it was not acceptable to the Canadian railways. The Canadian railways objected to their shippers being obliged to pay the same increase in rates as within the United States and the Canadian railways not receive any share of the increase. Our not receiving any share of the increase was not any saving to the Canadian shippers. The shippers had to pay the increased rates but we could not get any share of it at that time.

THE CHAIRMAN: What year was this?

MR. CARSON: 1931, my lord.

COMMISSIONER INNIS: You would not commit yourself as to the feasibility or possibility of subsidizing the shipper? That is to say, one can see the railroads' position from your outline but it does seem to me that certain shippers, that is to say, those shippers who are exporting to the United States are being penalized as compared with other Canadian shippers. You would not care to make any comment as to the advisability of subsidizing those shippers?

A. You mean subsidizing the Canadian shippers?

Q. Yes.

A. I am afraid if you subsidized the Canadian shipper in a case of that kind and it would be known to the railroads in the United States, they would retaliate and cancel through rates.

Q. I am not talking about a subsidy to the railroads, but a subsidy direct to the shippers?

A. That is what I mean. Take newsprint paper,





if you will, from Millinocket, Me., to Chicago, and from Three Rivers, Quebec, to Chicago. The rates are the same. Now, if you increased the rate from Millinocket to Chicago, and not from Three Rivers to Chicago, then the Three Rivers shipper has an advantage.

Now, the United States railroads require the rate from Three Rivers to be increased at the same time and to the same extent as from Millinocket, Me.. If the Canadian railways were not able to increase that rate, then the United States railroads could only withdraw from a concurrence to the publication of a through rate, which would mean that the rate would be cancelled and the combination of locals would be higher than the rate from Three Rivers to Chicago increased to the same extent as the rate increased in the United States.

Q. I understand that, but is there any way in which Canadians can protect themselves against Decisions taken by a foreign body?

A. You mean the shipper?

Q. Yes.

(Page 15062 follows)



A. Yes. I don't know how the shipper could protect himself.

Q. Is there any way in which Canadians can protect the shipper? That is to say, the Canadian economy is being disturbed by the action taken by an outside body. It is being distorted. Is there any way in which they can protect themselves?

A. I would not think that it would affect the Canadian economy, if I may say so, because if the shipper at Three Rivers could pay the same rate as from Millinocket to Chicago to sell his product, then he could continue to do so if his rate was increased to the same extent as in the United States.

Q. Let us come back to the case of pulpwood shippers we had before us a few days ago. Is that not a case in which those particular shippers have to pay a higher rate than prevails, let us say, between shippers in Canada with regard to the United States?

A. They have to pay a higher rate from a point in Canada to the United States than obtains wholly within Canada for similar distances, yes, sir.

Q. That is the point which I want to make. It distorts the economy?

A. Pardon?

Q. It seems to me that is where the economy is distorted by the action of an outside body?

A. I do not know why it should be.

Q. You penalize the particular shippers because they are shipping to the United States?

A. You have to look at it from the point of view of the receiver of the pulpwood, in this case at Johnsonburg, Pa. If rates to Johnsonburg, Pa., from all points of



production in the United States are increased, we will say, 25 per cent, then the receiver at Johnsonburg is not affected in any way if the rate from Canada to Johnsonburg is increased by the same amount.

Q. Yes, in this case it would appear -- Mr. Sinclair, of course, was rather questioning this -- that the shipments fell off drastically in Canada to the advantage of the American shipper who was located very close to the market. It is rather interesting the case was not put forward by a Canadian; it was put forward by an American.

A. That explanation, sir, not only applies to shipments from Canada but also to shipments from the United States producing points.

Q. We have to let the Americans look after themselves?

A. There may be two reasons why the movement of pulpwood from Canada to Johnsonburg, or from similar points of distance in the United States to Johnsonburg, dropped off. One may be because the higher rates encouraged the user of the wood to obtain his wood from nearer sources of supply, and another reason which seems to me very important is that everyone knows that paper manufacturers' inventories of pulpwood grew tremendously, and within the past year or so even in Canada they have been reducing their inventories by cutting and moving less pulpwood.

Q. It is your first point that really concerns me, that is to say, it does operate to the advantage of the American shipper, and it does place the Canadian shipper at a disadvantage, and it does seem to me this follows from the action of a body outside of this country which places the rates out of line with rates which are already





determined by bodies in this country.

A. Maybe I misunderstood you or you misunderstood me, but I do not think it matters if the rate from Canada to the United States is increased to the same extent as within the United States when rates within points in the United States are increased the same amount.

Q. It seems to matter to the pulpwood shipper who is the individual I am concerned about.

A. He is at no greater disadvantage than the pulpwood shipper in the United States.

Q. He seems to have lost his market whereas the American shipper in the United States has gained a market?

A. He may have lost his market with the long distance shipper in the United States and replaced it by a shipper nearer the mill where they obtain their source of supply nearer at hand, but my whole point is that the Canadian shipper is not affected to any greater extent than the United States shipper.

COMMISSIONER ANGUS: Q. Is it really not just that question of the distance, that if the American shipper were farther away an increase in American rates would put him at a disadvantage as against the Canadian shipper, and it would work to his advantage if he were nearer?

A. Yes, sir.

---Recess.

(Page 15066 follows)



Upon resuming:

MR. EVANS: I was going to suggest to Dr. Innis that a theoretical answer to his question might be: to suggest that a subsidy paid to the producers would be equivalent to saying that the United States give a tariff to take care of this situation. My suggestion would be that it might result in a vicious circle.

COMMISSIONER INNIS: I can understand that. But the point which gives me concern is: that the Canadian Government does follow the policy of subsidizing exports of wheat, if we accept the Crow's Nest Pass rates as being a lower rate than comparable rates in the United States.

MR. EVANS: I think probably that policy developed from the difficulty of meeting competition of producers in other parts of the world, and that could not be used in the case mentioned, because the competition of the Canadian producers in the United States market is that of the United States producers, who are being treated in the same way.

COMMISSIONER INNIS: Could not the Canadian producer ship wheat into the United States with the benefit of the Crows Nest Pass rates?

MR. EVANS: The tariff, again, might counter-act it.

COMMISSIONER INNIS: I suppose the same would hold in respect to the shipment of pulpwood from another province?

MR. EVANS: When you get to the state where the American producer yells hard enough, you would get a prohibition against this commodity.

COMMISSIONER INNIS: Yes. The wheat

Dear Sir:

Enclosed for you are two copies of a letterhead memorandum.

The first copy is a copy of the letterhead memorandum which was

sent to you by the Bureau of the Federal Bureau of Investigation on

January 10, 1950, and the second copy is a copy of the letterhead

memorandum which was sent to you by the Bureau of the Federal Bureau of

Investigation on January 10, 1950, and the third copy is a copy of the

letterhead memorandum which was sent to you by the Bureau of the Federal

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letterhead memorandum which was sent to you by the Bureau of the Federal

Bureau of Investigation on January 10, 1950, and the seventeenth copy is a

producer presumably has not yelled loud enough.

MR. CARSON: Will you go on with your explanation about this?

A. I referred to the position of the Interstate Commerce Commission with respect to Ex Parte No. 103, and I would like now to refer to the action which was taken at the time the next increase in rates took place within the United States, in 1935, in what was known as Ex Parte 115, which is reported in Volume 208, I.C.C., pages 4 to 85.

Q. The report is 208 I.C.C., commencing at page 4 and running to page 85?

A. Yes, sir. Now, this decision of the Interstate Commerce Commission was dated March 26, 1935.

THE CHAIRMAN: What was that last point?

MR. CARSON: 208 I.C.C., pages 4 to 85.

MR. FRAWLEY: That is Ex Parte 115?

MR. CARSON: Yes, Ex Parte 115.

MR. CARSON: Q. You say that decision was dated March 26, 1935?

A. Yes, sir. And it was followed by an application of the United States and Canadian carriers to make increases in international freight rates between points in Canada and points in the United States in like manner, effective at the same time as the rates were being increased within the United States.

I would like to direct the Commission's attention to the Board's general Order No. 536.

Q. That is the Canadian Board?

A. Yes, sir; general Order 536 of the 15th of April, 1935, and its judgment dated April 16, 1935, is contained in J.O.R. & R., Volume XXV, page 67.

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Q. That is, Volume XXV?

A. Volume XXV, pages 67 to 71.

Q. Have you got a copy of it which we could hand to the Commission?

A. Yes, sir.

Q. I just have two spare copies.

THE CHAIRMAN: Is this an exhibit?

MR. CARSON: It does not need to be, as long as you please the Commission. It is in the Law Reports, J.O.R. & R.

THE CHAIRMAN: Oh, I beg your pardon.

MR. CARSON: This is a judgment of the Board.

THE CHAIRMAN: It is a general order?

MR. CARSON: A general order.

MR. CARSON: Q. You were going to direct the Commission's attention to something in that decision?

A. Yes, sir.

MR. FRAWLEY: Are you going to give us the references in the J.O.R. & R. report?

MR. CARSON: I intend to, Mr. Frawley.

THE WITNESS: XXV J.O.R. & R., pages 67 to 71.

MR. CARSON: Q. This decision is on the second page of the pamphlet, and it bears file No. 39422.

A. I would like first --

THE CHAIRMAN: The pamphlet begins on page 65.

MR. CARSON: Yes, my lord.

THE CHAIRMAN: And you refer to what?

MR. CARSON: I refer to page 67. The one at page 65 has nothing to do with the matter.

THE CHAIRMAN: Very well.



THE WITNESS: I would like first to draw to the Commission's attention a paragraph in the Board's judgment at pages 67 and 68, commencing at the bottom of page 67:

"Upon it appearing that prompt action in this matter was necessary, the Board, yesterday, sat in conference with representatives of the Canadian carriers, the Canadian Manufacturers' Association, the Toronto Board of Trade and the Montreal Board of Trade. It was represented to us that, in the event of approval of the applications, the increased rates thereby provided for will be subject to the same basis of divisions between Canadian and United States carriers as governs the present international rates; that, if we denied the applications or suspended tariffs, filed on legal notice providing for such increases, the United States carriers would adopt the same method of tariff publication as followed in connection with increased charges authorized by the Interstate Commerce Commission in Ex Parte No. 103, which became effective January 4, 1932, for a temporary period. In the case last cited, the United States lines issued a so-called master tariff setting out the increased charges authorized and, on the face of the tariff, it was stated: -

'This tariff is applicable only in connection with tariff publications making specific reference to this tariff and to the extent indicated in such tariff publications.'

On page 3 thereof, item 35 read as follows:

'(a) Where freight is transported from



a point in the United States through Canada or Mexico to a point in the United States, the emergency charges will be those provided in this tariff applied to the transportation charges assessed, under rates which are subject to this tariff, and shall accrue to carriers within the United States.

(b) Where freight is transported from a point in the United States to a point in Canada or Mexico, the emergency charges will be those provided in this tariff applied to the transportation charges assessed, under rates which are subject to this tariff. Such emergency charges shall be prepaid at the origin point in the United States and shall accrue to carriers within the United States.

(c) Where freight is transported from a point in Canada or Mexico, to a point in the United States, the emergency charges will be those provided in this tariff applied to the transportation charges, assessed under rates which are subject to this tariff. Such emergency charges shall be added to the transportation charges and collected by the delivering carrier, and shall accrue to the carriers within the United States."

I shall not read the next paragraph because it has nothing to do with what I am referring to.

Q. Except that I see the last sentence which reads:

"The Canadian carriers had no participation whatever in the increased charges."





I think that is clear.

A. That is right. And now, commencing with the paragraph at the bottom of page 68, I read:

"All the parties yesterday appeared before us, representing both the carriers and the shippers, agreed that it is impracticable to apply the increased charges authorized in Ex Parte No. 115 confined to the proportions of the through international rates accruing within the United States, because, amongst many other things that might be mentioned, the proportions, or divisions, of the total joint international rates are not published and vary as to different international junction points between the same points of origin and destination, consequently, the same method of publication as followed in 1932 would be forced upon the United States lines by our action in denying the applications, because it is the only practicable method of applying the increased charges authorized to the international rates, except the alternative of the United States lines withdrawing from participation in joint through international rates, resulting in the combination of the local Canadian rates to and from the international boundary plus the rates within the United States to and from the international boundary, the latter increased in accordance with the provisions of the commission's order in Ex Parte No. 115, which would be ruinous to Canadian shippers and receivers as it would involve rates very much in excess of the present through international rates increased in accordance with the Commission's decision in Ex Parte No. 115. Canadian shippers and receivers desire, above all



other considerations, that the continuity of joint through rates between Canada and the United States shall be preserved.

Summarized, the situation is that the granting or denial of the applications before us will make no difference in the amount of the charges to be paid by Canadian shippers and receivers of international freight traffic. Our denial would have the result that, as in 1932, the United States lines would collect and retain the whole amount of the increased charges, the Canadian carriers would receive no portion thereof and be deprived, by our action, of a very substantial revenue during the period the increased charges are in force.

Recognizing and admitting this situation, the representatives of the shippers' organizations hereinbefore named expressed the view that the Board should approve these applications.

The Board, upon consideration thereof, issued its General Order No. 536, dated April 15, authorizing.

That the proportions of through rates and charges between the United States and Canada, in both directions, in effect at the date of this order, accruing within Canada, may, by general order or blanket supplement to existing tariffs, be increased to the extent that the through rates and charges shall conform to the increases authorized by the said order of the Interstate Commerce Commission.

That the through rates and charges so increased may be published and filed to



become effective on or after April 18, 1935, upon one day's notice, subject to the proviso that the resulting rates will in all respects be subject to complaint or investigation and to determination as to the lawfulness of schedules, rates, or charges as provided by the Railway Act."

Q. Yes. Is there any other decision to which you desire to refer?

A. The other decision to which I would like to refer was with respect to statements made at page 14368 of the transcript, where Mr. Sinclair made reference to an exception of the Board of Transport Commissioners in not granting increases in international rates to the same extent and at the same time as the increases took place in the United States.

Q. What was that instance?

A. That instance was with respect to the decision of the Interstate Commerce Commission in Ex Parte No. 148 of the 2nd of March, 1942.

Q. And is reported where?

A. It is reported in 248 I.C.C. 545.

"The Board of Transport Commissioners in this instance did authorize . . ."

THE CHAIRMAN: What is the date of that?

MR. CARSON: 1942, the 2nd of March, 1942.

THE WITNESS: The Board of Transport Commissioners in this instance did authorize the same increase in the international rates as took place in the United States by its General Order No. 616, of the 5th of March, 1942, as reported in XXXII J.O.R. & R., pages 8 and 9.

MR. CARSON: Volume XXXII J.O.R. & R., pages 8 and 9.

(Page 15081 follows)





MR. CARSON: We have three copies of that.

THE WITNESS: The general Order Number 616 is on pages 8 and 9. Now the increases - -

Q. This Order, as I understand it, Mr. Jefferson, relates to the import and export rates related to the Canadian ports?

A. Yes, sir, it relates to the whole - -

Q. Relates to United States ports?

A. To the whole question of international rates as well as import and export rates.

Q. I see.

A. What I want to point out now, is that the increase which was granted by General Order Number 616 to international rates, was made effective with the approval of the Wartime Prices and Trade Board, whose approval at that time was necessary. The only exception was with respect to item 3 of the Order which is on page 9 which I will read:-

"That no advances in import and export rates between Canadian points and Canadian Atlantic or Pacific ports and furtherance rates on traffic between points in Canada and Canadian points destined to or from Newfoundland, are authorized pending hearing and further Order of the Board."

Q. Now then, that exception having been introduced, what happened?

A. A further hearing was held - -

Q. And a decision rendered on that further hearing?

A. A decision was rendered by the Board of Transport Commissioners in its judgment

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as contained in J.O.R. & R. 32.

Q. Volume 32?

A. Pages 123-137.

Q. We have three copies of that for the Commission. Now, this judgment, as I understand it, Mr. Jefferson, relates only to the exception we found in the earlier order, that is, the import and export rates between Canadian points and Canadian Atlantic or Pacific ports?

A. That is right.

Q. And furtherance rates on traffic between points in Canada and Canadian ports that were destined to or from Newfoundland?

A. That is right. Now, we won't read all these pages 123 - 137, but I would like to refer to pages 136 and 137, and at the top of page 136 the Board states:-

"We have decided, upon very careful consideration of all that has been submitted, that this permission should be given".

Then the concluding sentence at the top of page 137:-

"Our finding in this application may be made effective only with the concurrence of the Wartime Prices and Trade Board".

Q. So the result of that is that the Board of Transport Commissioners in effect was reversing the view it took in the earlier decision, a few weeks earlier?

A. The Board of Transport Commissioners did not reverse their position, no sir: they confirmed their previous decisions.

Q. They what?



A. They did not reverse their position; they confirmed their previous decisions.

Q. Yes, I see.

A. But the Wartime Prices and Trade Board, after receiving the judgment of the Board of Transport Commissioners, still refused to give their consent to increasing the rates referred to in Item 3.

Q. Mr. Jefferson, what I meant was - -

A. In General Order 616 which I read.

Q. What I meant was that in the Order it is reported in 32 J.O.R. & R. at page 9 - -

A. Yes sir.

Q. I understood the Board of Transport Commissioners had made an exception.

A. They made an exception because the Prices Board would not approve of the import and export rates between Canadian points and Canadian Atlantic or Pacific ports being increased.

Q. That was the situation at 13th March 1942, was it?

A. 5th March 1942, you mean, the date of the Order.

Q. Well, I was looking at the Order in 32 J.O.R. & R. Yes, you are quite right, 5th March 1942.

A. Yes, sir.

Q. They had made that exception?

A. Yes, sir. You see, here I might explain, Mr. Carson, and perhaps it would be better understood, that the Board of Transport Commissioners were willing to approve of the increase on international traffic and the import and export traffic to which I refer.





Q. Yes.

A. The Prices Board said: "We will approve the increase so far as international traffic is concerned but not import and export.

Q. Yes.

A. Then the Board issued an exception and said it would be subject to further hearings of the Board.

Q. Yes.

A. Then the Board had a hearing and then the Board reaffirmed what they considered should be done, that the import and export rate should be increased, but the Prices Board still would not give their approval.

Q. I see.

A. Now, following that period in 1942, there was another increase in rates in the United States in 1946.

Q. Had you been pressing the Prices Board about this?

A. I beg your pardon?

Q. Had you been pressing the Prices Board about this?

A. Yes, sir, we had conferences with them.

Q. I am sorry, I interrupted you. You said there was a similar application - -

A. When a similar application came before the Board of Transport Commissioners and the Wartime Prices and Trade Board in 1946 following the decision of the Interstate Commerce Commission in Ex parte 148 & 162 (there were two Ex partes at that time) decided 5th December 1946, both the Board of Transport Commissioners and the Wartime prices



and Trade Board approved increasing international rates as well as import and export related rates through Canadian ports at the same time and to the same extent as rates were increased in the United States.

Q. Now, have you got that Order?

A. Yes, sir.

Q. I think I might file that as an Exhibit. It is the formal order which will go along with the other formal orders. That will be Exhibit - -

ASST. SECRETARY: 154.

THE WITNESS: It is the Order of the Board of Transport Commissioners number 68340 of the 19th December 1946.

THE CHAIRMAN:: What number did you say?

A. 68340.

THE CHAIRMAN: And what date?

A. 19th December, 1946 - contained the Board's approval, and, as will be noted in the lower right hand corner of page 2, it was concurred in by the Wartime Prices and Trade Board "This 19th day of December, 1946", signed by Mr. Donald Gordon, Chairman.

. . . EXHIBIT 154 - filed by Mr. Carson.....  
Order of the Board of Transport  
Commissioners number 68340 of  
19th December 1946.

Q. So that while they would not do it, while the Prices Board did not give their approval to that increase in respect of that particular traffic in 1942, they did in 1946?

A. That is right.



Q. And was that as a result of the railways' position being presented to the Prices Board?

A. Yes, sir. We - when I say "we", the representatives of the railways, and I was one of them - came up here and had conferences with Mr. Gordon and his staff and also with the Board of Transport Commissioners, and they all agreed that if we wanted to retain international rates and related import and export rates, the increases had to be applied to them.

Q. Now, Mr. Jefferson, I see you have opened up your map, one which, I think, we gave to the Commission before Christmas.

A. Yes, sir, that was Exhibit 141.

Q. Were you going to give some illustrations of what you have been speaking about?

A. Yes, sir. Has the Commission got the map, or do they want another copy?

THE CHAIRMAN: What is this now?

MR. CARSON: It is Exhibit 141. Mr. Jefferson is going to take up that map and illustrate some of the things he has been speaking about.

THE WITNESS: I would like first of all to again explain what Mr. Sinclair mentioned the other day with respect to the movement of lumber from the Pacific coast to Boston, and the situation is one that not only obtains to Boston but to all points in Eastern United States.

Q. But you have taken this illustration?

A. Yes, sir. Now the first thing to bear in mind is <sup>that</sup> with the concurrence of the United States railroads the Canadian railroads are permitted to





publish the same rates on lumber and forest products from Vancouver, as an example, as from Seattle to Tacoma and Portland to Boston.

Q. And you have that permission because you are going into United States territory?

A. Yes, sir. Now, if the rate was increased from Seattle to Boston and not from Vancouver to Boston, the Seattle shippers would immediately complain and ask the United States railroads to discontinue permitting the Canadian railroads to publish the same rates from Vancouver as from Seattle, because the rate would become lower if the Seattle rate was increased and the Vancouver rate was not.

Q. That is to the advantage of the Vancouver shipper as against the American shipper in the Boston market?

A. Yes, sir.

Q. Have you any doubt as to what would happen?

A. The United States shipper would immediately complain.

Q. Have you any doubt as to what would happen?

A. What would happen?

Q. As a result of his complaint?

A. Well, if the Canadian railroads were not allowed to increase the rate from Vancouver to the same extent as from Seattle, then the United States railroads would have no other recourse than to withdraw their concurrence, which would make the rate from Vancouver to Boston higher, by the use of the combination of the rates on the boundary, than if the Vancouver rate had been increased to the same extent as the Seattle rate.



Q. So in that way the Canadian shipper would suffer?

A. Yes, sir. Now, another point I would like to mention here, there were some statements made as to why could not the rate from Vancouver to Boston be increased only to the extent that the haul is within the United States. Well, I have just given one reason. Now I will give another reason. The rate from Vancouver to Boston on lumber applies (if you will follow that map at the extreme west end) via Huntingdon, B.C., or through Sumas, Washington, which is the red line right on the boundary.

Q. That applies to a very short haul?

A. In Canada.

Q. In Canada?

A. Yes.

Q. And then it goes down the United States and moves over United States territory?

A. Now, if you increase the rate from Vancouver to Boston via Sumas to the extent of the haul within the United States, practically the entire rate would be increased, or we will say 90% of it will be increased, if you like. Now, the rate from Vancouver to Boston also applies right across Canada, through Montreal, down through Newport and Wells River, if you follow the red line down to Boston, and Wells River is where we turn the business over to the Boston and Maine. Now, if you increased that rate, the rate via that route, in the same manner as accrued within the United States, you would only increase about 10%



of the rate.

Now, to summarize what I have said: first, if the rate from Vancouver was not increased to the same extent as the Seattle rate, the shippers in British Columbia would have an advantage over the shippers in the United States; and if you increased the rate via Sumas in a different <sup>manner</sup> than via Newport, you could not retain the equality of routes. The equality of rates via all routes must be preserved. There are other rates from Vancouver to Boston besides the two I have mentioned. We have the route from Vancouver to Boston down through Portal over the Soo line through Minneapolis to Chicago East and Boston. You cannot preserve a quality of rates unless the through rates are increased.

Now, I might give one other illustration perhaps to demonstrate my point. We have a rate on newsprint paper, we will say, from Three Rivers, Quebec, to Buffalo, New York. That rate to Buffalo applies via - I can mention three routes; one, all the way through Canada, through Toronto and Hamilton and just across the river at Black Rock to go to Buffalo; another route would be from Three Rivers to Prescott, Ontario, across the river to Ogdensburg, and over the New York Central to Buffalo; the third route would be via Montreal and over the New York Central to Buffalo. The divisions by all three of those routes are different.

Now, if you increased the rates only to the extent that they accrued within the United States, when you moved traffic through Toronto and Hamilton you would have practically no increase in the United States. If it moved through Prescott and Ogdensburg,





you would have a larger increase in the United States; and if it moved from Montreal it would be a still larger haul and increase in the United States. But there again, you have got to bear in mind that if you turn business over to the New York Central in Montreal, and they take it to Buffalo, they have a haul in Canada before they reach the boundary between United States and Canada.

Now, I would like to make one more observation and that is with respect to the statement made by my friend Mr. Duffy, when he was here the other day, with respect to pulpwood rates. Now, I am going to give the same example as Mr. Sinclair gave. We will take a shipment of pulpwood going to a mill at Rumford, Maine, (and there is a mill at Rumford, Maine) and the pulpwood originates at Holton, Maine. Now, the entire increase would apply to that movement because the haul would be within the United States. But from Woodstock, New Brunswick, which is closer to Holton, the rate would be the same to Rumford as from Holton. If you could only increase the Woodstock rate to the same extent as the haul within the United States, you would immediately have a lower rate in Woodstock than you would from Holton, which is a situation that the shippers in the United States would not tolerate. The same thing applies to potatoes moving out of Maine and New Brunswick, and going to Eastern United States points. You increase the rates from State of Maine points, and the entire increase is authorized by the Interstate Commerce Commission. You have got to apply that same increase



to the rates from New Brunswick; otherwise you would not have the through rates, they would just be cancelled. Then they would be higher rates.

Q. That is, the combination of locals?

A. Yes.

Q. Is there any other illustration, Mr. Jefferson, or does that indicate generally what you mean?

A. No, sir. If the Commission want to ask any questions - -

COMMISSIONER INNIS: Do you have much difficulty arranging these rates with American lines? Do you find them cooperative?

(Page 15096 follows)



A. We find the American lines are co-operative in making rates from Canada to the United States so long as we do not suggest a basis of rates lower than within their own country. If we were going to suggest a rate - and I will use my New Brunswick and Maine example again - if we were going to suggest a rate on pulpwood from Woodstock, New Brunswick, to Rumford, Maine, lower than from Holton, Maine, then they would not approve it.

Q. I was thinking of Mr. Frawley's brief where he indicated the difficulties of working out through rates between Canadian roads. Would it be easier to work out a through rate with an American road than it would with a Canadian road?

A. Difficulty in making rates with Canadian railways?

MR. FRAWLEY: Inter-line rates in Canada.

THE WITNESS: Oh.

MR. FRAWLEY: I am just answering your question. I think that is what Dr. Innis has in mind.

THE WITNESS: Well, I would not say we have any difficulty - perhaps I should say no prohibitive difficulty in making joint inter-line rates in Canada, where there is necessity for joint inter-line rates, than we would on international rates.

COMMISSIONER INNIS: Q. I got the impression as to American roads that it is very easy to work out and you find them very co-operative whereas with Canadian lines there seems to be a little more difficulty. You say as of necessity.

A. You have instances where you have extreme difficulty in making international rates with American railroads. I can cite the example of rates on fertilizer commodities out of Tadanac and Warfield, British Columbia, going to the United States. Even when we propose, in our opinion,





a reasonable basis of rates the United States railroads just say, "We are not going to agree to it", and the reason is because there are so many producers in the United States who control a lot of traffic, and they just say to the railroads of the United States, "You are not going to allow that business to come in here from Canada to compete with us."

Q. That is what I was wondering.

A. We have these cases, yes, sir.

MR. CARSON: Q. In that way they sort of put up a tariff against you?

A. By refusing to agree to a reasonable rate, yes, sir.

MR. CARSON: Unless the Commission has any questions they would like to put to Mr. Jefferson on the subject, I was not going to develop it any further.

COMMISSIONER ANGUS: Q. If the portion of the haul within the United States is very short is there any point in a joint through rate?

A. Is there any point --

Q. Is there any object in a joint through rate? Is it advantageous?

A. Oh yes, if the haul is short in the United States the combination of locals would still be higher than the joint through rate.

Q. Except that you would be free to reduce your local?

A. Oh, yes, sir, but there would not be much advantage in reducing our local and letting the railroad across the boundary have their full local.

Q. If it is very short?

A. You might; it would have to be extremely short, but even then if you interfere with through rates in that way, even though the haul in the United States was short, it would just go on and on and on and you would not preserve a proper relationship of rates as between Canada and the



United States where the haul became longer.

MR. CARSON: Q. Do you have to keep all gateways on the same basis?

A. Oh yes.

THE CHAIRMAN: Mr. Carson, we will resume at a quarter to three.

(At 1.00 p.m. the Commission adjourned to resume at 2.45 p.m.)



AFTERNOON SESSION

MR. FRAWLEY: Mr. Chairman, I now have received the Annual Report of the Dominion Coal Board for the year 1948 and 1949 that I was speaking of this morning and I have given the secretary several copies.

MR. CARSON: Are you putting that in as an Exhibit?

MR. FRAWLEY: Yes, because it contains information of the kind that was asked this morning. I find that there are two subvention orders in Canada subsequent to the date of the Report which is for the fiscal year ending March 31, 1949 -- one on December 1, 1949, P.C. 6125 with respect to the movement of Nova Scotia coal, and one P.C. 6124 of December 1, 1949, respecting the movement of New Brunswick coal. I think I can obtain copies of those Orders in Council from the Dominion Coal Board and when I obtain them they might be added as a part of this same Exhibit.

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EXHIBIT NO. 155: Filed by Mr. : Annual Report of the  
Frawley. : Dominion Coal Board for  
: the fiscal year ending  
: March 31, 1949.

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MR. C. E. JEFFERSON RECALLED

EXAMINATION BY MR. CARSON (CON.)

Q. Mr. Jefferson, is there anything else you wish to say on international rates, subject to any question the Commission may wish to put to you?

A. No, sir, I have nothing more to say.

Q. Then, I was going to ask you something briefly about proportional rates and I think they are dealt with at Page 104, of Part I of the Canadian Pacific Submission. Now, can you make a brief comment on those rates, Mr.

Jefferson?





A. Well, what is stated on Pages 104 to 108 of Part I of the Submission, explains this question clearly. There are one or two observations that I think it would be well to make.

It has been suggested to this Commission that proportional rates be established between points in Western Canada and the international boundary gateways. In the first place, I think I should say what a proportional rate is. A proportional rate is a rate limited in its application to through traffic which has already paid or will subsequently pay a further transportation charge; in other words, a proportional rate is not a rate in and of itself; it is a part or a proportion of a through rate.

Q. Would you just give one illustration there, if you can, of a proportional rate?

A. Well, we have some proportional rates in Western Canada from the boundary to -- I can take the case of petroleum products, if you will, where we have a proportional rate from Portal to Moose Jaw or Regina to equalize the rate from Northgate to Regina. Now, the proportional rate from Portal is added to the rate from the shipping point, we will say, Oklahoma, if you like -- some point in Oklahoma to Portal to equalize a combination available via Northgate.

THE CHAIRMAN: You mention Portal and Northgate. Are they both on the Canadian Pacific?

A. No, sir.

Q. One is on the Canadian National?

A. Portal is on the Canadian Pacific and Northgate on the Canadian National Railway. If the Canadian lines were to publish proportional rates between all points in Western Canada and the international boundary gateways,



they would be required to give consideration to what rates would be added from and to the boundary gateways by the United States railroads to comprise the proportion of the through rates south of the border in the United States. Unless agreement was reached between the United States and Canadian railways, to publish proportional rates from and to the border gateways in both countries, the Canadian lines would be forced to absorb all of the reduction below the full combination of local rates as the United States would require their full local rate to or from a border gateway.

MR. CARSON: Yes.

A. Pages 104 to 108 of our Submission, point out what is liable to happen if the Canadian railways were compelled to establish proportional rates to or from the boundary gateways on international traffic contrary to the wishes of the United States railroads. Proportional rates to and from border gateways should only be established in exceptional or special cases.

Q. Now, have you any comment to make, Mr. Jefferson, with respect to applying the standard mileage rates or the distributing rates from the United States-Canadian border junctions in Western Canada on international traffic as mentioned at Pages 105 and 106 of the Canadian Pacific Submission, Part I?

A. Well, I think what is outlined on those pages covers the situation, but I might read two paragraphs from Page 105.

Q. Yes?

A. "There is no justification for applying distributing rates to or from United States-Canadian border junctions in Western Canada



on international traffic. The distributing rates had their origin in the early development of Western Canada and are special rates to assist in the distribution of goods from wholesale centres in Western Canada to the retail trade in the outlying districts on which the railways had already received an inward haul.

There is no valid reason why the same distributing basis should be granted on merchandise entering Canada from the United States. In many cases such merchandise is in direct competition with similar goods produced at points in Canada."

I might say, however, that in any equalization of class rates as a result of the pending general freight rates investigation, it is quite likely that this particular matter may be adjusted by applying the new equalized distributing class rate scale, that is, to and from the international boundary in Canada.

Q. Now, Page 106 of the Submission refers, about the middle of the page, to Pages 87 and 88 of the Appendix showing a comparison of the standard mileage class rates applicable in Western Canada to the United States Western Trunk Line Zones, 1, 2, 3, and 4 class rates for representative distances from 100 to 1,000 miles. Now, have you any comment to make on the Tables at those pages?

A. Pages 87 and 88 of the Appendix show the first class, third class, and fifth class standard prairie mileage rates for distances ranging from 100 miles to a 1000 miles as compared with the class rates in adjacent United States territory. The Prairie





standard rates shown in these Tables are those prior to the interim increase of 8 per cent effective October 11, 1949.

Q. That is because the Appendix was apparently made up dated 1st October, 1949?

A. Yes, sir.

Q. Now, I notice that on the two pages in the Appendix to which you have just referred, there are four zones in the Western Trunk lines territory all with different scales of rates. Have you got a map which might help the Commission in understanding those Tables?

A. Yes, sir.

Q. That will be Exhibit 156 --

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EXHIBIT NO. 156: Filed by Mr. : Map Showing Different Scales  
Carson. : of Rates for Four Zones in  
: Western Trunk Lines Territory  
: in United States.

(Page 15106 follows)



Q. Now then, with the map before us, Mr. Jefferson, what did you want to say?

A. I should like to say first of all that the rates that are referred to on pages 87 and 88 of the Appendix are those in western trunk line territory where you see the dividing lines for Zone 1, Zone 2, Zone 3 and Zone 4. The rates in Zone 1 are not, in my opinion, comparable with the rates in prairie territory.

THE CHAIRMAN: You mean they are in excess?

MR. CARSON: Q. Why are they not comparable?

A. Because there is one territory is not in any way adjacent to prairie territory.

Q. Yes?

A. In my opinion the proper comparisons are with the Zone 2, Zone 3 and Zone 4 rates with the rates in the prairie provinces.

Q. In order to understand the significance of the comparison will you please tell the Commission how the rates are calculated in these zones in the United States?

A. When traffic moves entirely within the zone the rate for that zone shown on the table is applicable. When the traffic is moving between zones the rate for the mileage within the zone having the lowest rate is taken, and there is added to that rate an arbitrary for the mileage in the other or higher zone.

Q. So that if the traffic is moving between any two of these American zones shown on the exhibit the rates will always be higher for given distances than the rates shown for a particular zone on the table at pages 87 and 88 in the Appendix?

A. Yes, sir.

Q. Now, what further comment have you to make on



the table at pages 87 and 88?

A. Even if the 8 per cent increase is added to the Canadian rates shown on these tables the rates for similar distances in the United States are generally higher than the prairie standard rates.

Q. Yes. Now then, Mr. Jefferson, you have heard Mr. Frawley complaining during the course of these hearings about the application to agricultural implements of the standard mileage rates from the international boundary. What have you to say about that?

A. Well, I have an exhibit which I would like to offer, and after it is distributed I will explain it.

MR. CARSON: That will be Exhibit 157.

EXHIBIT NO. 157 -- Comparison of rates on  
agricultural implements.

THE WITNESS: This exhibit shows a comparison of the rates on agricultural implements from two different agricultural implement shipping points in the United States namely, Chicago, Illinois, and Moline, Illinois, to international boundary points, Noyes, Minnesota, Northgate, North Dakota, and Portal, North Dakota, with the 6th class standard mileage rate applicable in prairie territory for the same distances.

MR. CARSON: Mr. Covert is not sure whether I gave this statement a number. It will be Exhibit 157.

THE CHAIRMAN: You are talking of the exhibit now?

MR. CARSON: Yes, the statement Mr. Jefferson has just referred to.

THE CHAIRMAN: Exhibit 157.

MR. CARSON: ↓. You have been pointing out that this statement is a comparison of the rate from two large  
implement  
agricultural/shipping points in the United States to certain international boundary points shown on the statement?





A. Yes, sir.

Q. With the 6th class standard mileage rate applicable in prairie territory for the same distances. Mr. Jefferson, you have heard Mr. Frawley complaining during these hearings about the application to agricultural implements of standard mileage rates from the international boundary to prairie destinations. What do you say about that?

A. Well, it will be seen from this exhibit that the rates on agricultural implements from Chicago and Moline to the international boundary points shown are in every instance substantially higher than the 6th class prairie standard mileage rates for the distances shown.

Q. Just explain these examples, please?

A. Take first the example on Exhibit 157 from Chicago to Noyes, Minnesota, a distance of 774 miles. The rate on agricultural implements is \$1.50 per 100 pounds while the 6th class prairie standard mileage rate for 774 miles is \$1.25.

Q. Yes?

A. That is, the rate on agricultural implements from Chicago to Noyes is 25 cents higher than the standard mileage rate for the same distance.

Q. For the same distance in Canada?

A. Yes, sir, from Moline, Illinois, to Noyes, 681 miles, the rate on agricultural implements is \$1.42 while the 6th class prairie standard mileage rate for 681 miles is only \$1.18. Take the two examples through the Portal gateway. From Chicago to Portal, North Dakota, for 955 miles the rate on agricultural implements is \$1.79 while the 6th class prairie standard mileage rate for 955 miles is \$1.48. In the case of a shipment from Moline, Illinois, to Portal, North Dakota, 861 miles, the



agricultural implement rate is \$1.70 while the 6th class prairie standard mileage rate for 861 miles is \$1.36.

Q. Mr. Jefferson, these 6th class prairie standard mileage rates shown in Exhibit 157, do they reflect the 8 per cent increase that was authorized last September?

A. Yes, sir, they do.

COMMISSIONER ANGUS: Q. I suppose the American rates are in American dollars?

A. Yes, sir, but you understand, Professor Angus, if a shipment of agricultural implements moves from, we will say, Chicago to Saskatoon on a through bill of lading you charge the rate from Chicago to the boundary and from the boundary to Saskatoon. The freight charges are collected in Saskatoon in Canadian dollars plus 6 per cent surcharge. I believe that is the surcharge to-day. Yes, that is right.

THE CHAIRMAN: Q. Is it not 10 per cent now?

A. The exchange is 10 per cent but the surcharge on international traffic is 60 per cent of the rate of exchange.

MR. EVANS: Q. You might tell the Commission how that is arrived at, why you take 60 per cent?

A. Why 60 per cent?

Q. Yes?

A. The surcharge rate of 60 per cent of the rate of exchange is a percentage which was agreed to some years ago; by taking all of the international traffic moving between Canada and the United States and excluding coal and coke it was found that the United States charges were 60 per cent and the Canadian charges were 40 per cent. Had coal and coke been included the exchange surcharge would have required to have been 75 per cent of the rate



of exchange, but they took coal and coke out and arrived at 60 per cent of the rate of exchange, and on coal and coke the charges on that traffic are handled in a different manner than the other traffic.

MR. CARSON: Q. Now, Mr. Jefferson, coming next to the subject of the Crows Nest Pass rates on grain and grain products, the Canadian Pacific submission is set out at pages 151 to 189 of Part 1, and in paragraphs 80 and 81 of the outline submission.

THE CHAIRMAN: Would you please repeat the page numbers?

MR. CARSON: Pages 151 to 189 of Part 1 and paragraphs 80 and 81 of the outline submission. The outline submissions are repeated on pages 151.

Q. Would you please tell the Commission, Mr. Jefferson, something about the application of these rates on grain and grain products?

A. The Crows Nest Pass rates on grain and grain products apply (a) on grain and grain products shipped from points in the prairie provinces to the lakehead, Fort William, Port Arthur and West Fort William.

Q. Yes?

A. (b) The rates also apply to Fort William, Port Arthur, West Fort William and Armstrong in making through rates to points in eastern Canada, eastern United States, also St. Lawrence and Atlantic seaboard ports for export; (c) the rates are also applied as maxima on local movements within the prairie provinces when such movements are in the direct line between point of shipment and Fort William and Armstrong.

Q. Yes?

A. (d) The Crows Nest scale of rates applies on





grain and grain products from points in the prairie provinces to Vancouver, New Westminster, Victoria and Prince Rupert for export except that on movements via the Canadian Pacific the actual mileage from point of origin is increased by the difference between the Canadian National mileage, Edmonton to Vancouver, and the Canadian Pacific mileage, Calgary to Vancouver, of 124 miles.

Q. One hundred and twenty-four miles represents the difference?

A. Yes, sir.

Q. Have you a map to show the lines of the Canadian Pacific Railway, prairie and Pacific regions, in 1897 compared with the lines that are in existence to-day?

A. Yes, sir.

(Page 15112 follows)



A. Yes, sir.

Q. That will be Exhibit 158.

EXHIBIT No. 158: Filed by : Map entitled  
Mr. Carson: Canadian Pacific  
: Railway Prairie  
: and Pacific Regions,  
: showing western  
: Canadian mileage  
: operated in 1897  
: and in 1949.

MR. CARSON: Q. Would you explain the significance of the colours on this map?

A. Coloured in black are shown the lines of the Canadian Pacific Railway at the time of the passing of the Crows Nest Pass Act in 1897.

Coloured in red are shown the additional lines of the Canadian Pacific which are in operation today.

Q. Yes. Those black lines extend from Vancouver to Port Arthur or Fort William?

A. Yes, sir.

Coloured in green are shown the lines of the Canadian National Railways in operation today.

Q. Yes?

A. Coloured in yellow are shown the lines of the Northern Alberta Railways in operation today.

Q. Those all spring out from Edmonton?

A. Yes, sir.

It is considered that this map would be useful to the Commission because it shows, at a glance, the extent to which the territory<sup>in</sup>/the prairie provinces from which the Crows Nest rates apply has been expanded by statute and by decisions of the Board of Transport Commissioners since the Act was passed in 1897.

Q. Yes?

A. This can readily be seen by a comparison of the black lines with the yellow, green and red lines.



Q. What about the mileage?

A. I would like to draw the Commission's attention to the fact that the mileage of railway operated by the Canadian Pacific in Western Canada in 1897 was only 3,710 miles; while today it is 11,243 miles, or more than three times the mileage of 1897.

Q. What about the Canadian National Railways?

A. In addition, the mileage operated by the Canadian National in Western Canada is 11,467 miles; and that of the Northern Alberta Railways is 928 miles.

Q. And those mileages are shown in the legend, on the right-hand side of the map?

A. Yes, sir.

Q. Have you any information showing the grain crops in the Prairie Provinces in 1898 as compared with recent years?

MR. FRAWLEY: Before we leave the subject of the railways, the line from Regina to Prince Rupert is operated by the Canadian National Railways today, I think, nevertheless there is a black line on this map from Regina to Prince Rupert through Saskatoon. Perhaps there is a simple explanation for it which Mr. Jefferson might give us.

THE WITNESS: The line from Regina to Prince Albert in 1897 through Saskatoon, where the black line is shown on Exhibit 158, was, at that time, owned and operated by the Canadian Pacific; but today that line is owned and operated by the Canadian National. It was sold, as I understand it, by the Canadian Pacific to the Canadian Northern Railways many years ago.

MR. CARSON: Does that clear the matter up for you, Mr. Frawley?

MR. FRAWLEY: Yes, thank you.

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MR. CARSON: Q. Have you any information showing the grain crop in the Prairie Provinces in 1898 compared to recent years?

A. Yes, sir.

Q. And is it in the form of a statement?

A. Yes, sir.

MR. CARSON: The statement will be Exhibit 159.

EXHIBIT No. 159: Filed by : Statement entitled  
Mr. Carson: Canadian Pacific  
: Railway Company,  
: Grain Crop,  
: Prairie Provinces,  
: Years 1898, 1946,  
: 1947 and 1948.

MR. CARSON: Q. What does Exhibit 159 show?

A. Exhibit 159 shows the grain crop in the Prairie Provinces during the crop years of 1898, 1946, 1947 and 1948. The exhibit was prepared to indicate the growth in the grain traffic to which the Crows Nest Pass rates now apply as compared with 1898.

COMMISSIONER INNIS: Q. You have no way of -- or you would not care to say how far those Crows Nest Pass rates have been responsible for the growth?

A. No, sir.

COMMISSIONER ANGUS: Q. Was it one of their objects to stimulate that growth?

A. It may have been at that time, yes, sir; but in later years the rates have become lower than the Crows Nest rates.

COMMISSIONER INNIS: Q. You would not care to say whether it had been overstimulated?

MR. CARSON: Q. Dr. Innis wants to know if you would care to say whether this growth had been overstimulated by the Crows Nest rates? I am reminded that we are going to have an economist who will deal with that sort of subject.



COMMISSIONER INNIS: I would like to have Mr. Jefferson's views.

A. In my opinion grain and grain products in Western Canada would have grown; they would have become very much larger, even though the rates had not been reduced 3 cents per 100 pounds in 1897.

Q. You do not think that grain is being grown where it ought not to be grown because of cheap rates?

A. No, sir.

MR. CARSON: Q. Are there any of these figures to which you would like to draw attention; or do they pretty well speak for themselves? I think they do.

A. Yes, sir.

Q. I would like you to read, starting at the bottom of page 151 and ending with the first paragraph at the top of page 153 of the Canadian Pacific submission.

A. The Railway Act requires that freight rates be just and reasonable and this means not only that they be just and reasonable to shippers as a whole, but also to all groups of shippers as well as to the railways."

THE CHAIRMAN: What is the meaning of that phrase "just and reasonable"? Has a meaning ever been given to it apart from the question of discrimination? Is there an abstract "just and reasonable" measure of rates?

MR. CARSON: Some of the authorities have said that it must be just and reasonable to the railways as well as just and reasonable to the shippers.

MR. EVANS: I do not think there ever has been any precise definition. I think the definition of reasonableness of the rates depends on various things which have been put forward to the Board. I do not



think it has ever been precisely defined. It is a matter of judgment for the Board after hearing comparisons and many other things, of rates in different parts of the country.

THE CHAIRMAN: So far the question appears to have been confined to cases where some complaint of discrimination has been made, but not in the abstract. Has that question ever been discussed and decided, whether rates are, in themselves, just and reasonable? I say, regardless of discrimination against localities?

MR. EVANS: Oh, yes.

THE CHAIRMAN: What sort of cases have you on that point?

MR. EVANS: I have not got any cases that I know of, but presumably there must have been a large number of cases.

THE CHAIRMAN: I would imagine from the railways' point of view they would say that a rate must provide a certain compensation for their cost, while from the shippers' point of view, is there any standard which has been applied?

MR. EVANS: There was one case in connection with the Alaska railways to which I can refer your lordship; and there is another case with respect to the scale of rates on and off the Alberta railways. Perhaps Mr. Frawley would know better about it. I believe they raised comparisons as to whether the rates were compensatory. I do not think the Board has ever precisely defined the term.

THE CHAIRMAN: In so far as any case has been decided, we would like to have the references, because I have not yet run across anything which says: Here is a rate which is just and reasonable to the

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shipper and to the railway. I wonder if Mr. Frawley has any material on that point?

MR. FRAWLEY: At the moment, my lord, I have nothing to add to it. It is a very illusory sort of thing. That is the conclusion I came to after reading all the cases.

COMMISSIONER INNIS: It is something which is always decided in a negative sense?

MR. EVANS: I would think so.

COMMISSIONER INNIS: There are no positive --

THE CHAIRMAN: That is, that a rate is not unreasonable.

MR. EVANS: I do not know if I would go that far. I shall look up the cases and give you all I can. But it is one thing which cannot be precisely defined.

THE CHAIRMAN: If you could find anything which would serve as a definition to proceed with, it would be very helpful.

MR. CARSON: Q. Now, Mr. Jefferson, would you kindly continue with the reading of that part of the brief or submission?

A. "The vesting of jurisdiction in the Board in connection with grain and flour is necessary in order that rates may be just and reasonable rates for other kinds of traffic. This is so because if the grain rates are deficient the rates on the other traffic must be forced to a higher level than otherwise would be justified.

To remove from the jurisdiction of the Board a large segment of a rate structure which the Board is charged with controlling is clearly wrong in principle and detrimental to sound rate making and to the efficient operation of a railway



undertaking. This has been recognized in the United States where a statutory reduction in the general level of rates for moving Government traffic was repealed in 1945. The so-called 'Land Grant Rates' were deleted from the United States Transportation Act by Public Law 256 - 79th Congress - Chapter 573 - 1st Session, H. R. 694.

Canadian Pacific submits that a recommendation should be made that Section 325(5) of the Railway Act be amended by striking out the following proviso:

' . . . Provided that, notwithstanding anything in this subsection contained, rates on grain and flour shall, on and from the twenty-seventh day of June, one thousand nine hundred and twenty-five, be governed by the provisions of the agreement made pursuant to chapter five of the Statutes of Canada 1897, but such rates shall apply to all such traffic moving from all points on all lines of railway west of Fort William to Fort William or Port Arthur over all lines now or hereafter constructed by any company subject to the jurisdiction of Parliament.'

and that Section 325(6) of the Railway Act should be repealed.

Section 325(6) of the Railway Act is:

'The Board shall not excuse any charge of unjust discrimination, whether practised against shippers, consignees, or localities or of undue or unreasonable preference, respecting rates on grain and flour, governed

the following year, the same year that the first

for removed values are added to level storage.

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by the provisions of Chapter five of the Statutes of Canada, 1897, and by the agreement made or entered into pursuant thereto within the territory in the immediately preceding subsection referred to, on the ground that such discrimination or preference is justified or required by the said Act or by the agreement made or entered into pursuant thereto, 1919, c. 68, s. 325; 1925, c. 52, ss. 2 and 3.'

The effect of such amendments would be to place the rates for the movement of grain and grain products wholly within the jurisdiction of the Board of Transport Commissioners."

Q. Now, Mr. Jefferson, in the light of your long traffic experience, what is your opinion as to whether the rates on grain and grain products within Western Canada should be made subject to the jurisdiction of the Board of Transport Commissioners?

A. It is my view that certainly on grain, and grain products, the rates should be subject to the jurisdiction of the Board of Transport Commissioners.

Q. Why?

A. Because if they are not subject to the jurisdiction of the Board of Transport Commissioners, it is not fair to the shippers of other freight.

Q. Yes?

COMMISSIONER ANGUS: Can you clear up a point for me, Mr. Carson? Suppose that these two changes were made in the Act as recommended; would the effect of them be that the Board of Transport Commissioners would have to consider whether rates on grain should have some special consideration because





of the background of the agreement of 1897 and of what followed; or would you expect that they would automatically be treated just as other rates are treated, on the ground that to do otherwise would be unfair to other shippers?

MR. CARSON: I am told by my colleagues that there is no doubt whatever that they would be subject to the jurisdiction of the Board, and that the rates would be fixed regardless of this background.

COMMISSIONER ANGUS: That no one could successfully argue before the Board that because of its background some special consideration should be given to these rates?

MR. CARSON: Quite so, yes.

(Page 15132 follows)



MR. CARSON: Mr. Sinclair tells me that that is made very clear by the first part of Sub-Section 5, of Section 325, which says:

"Notwithstanding the provisions of Section Three of this Act, the powers given to the Board under this Act, to fix, determine, and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost of transportation may from time to time require, shall not be limited (that is the power of the Board) -- shall not be limited or in any manner affected by the provisions of any Act of the Parliament of Canada or by any agreement made or entered into pursuant thereto, whether general in application or special, and relating only to any specified railway or railways, and the Board shall not excuse any charge of unjust discrimination whether practised against shippers, consignees, or localities, or of undue or unreasonable preference, on the ground that such discrimination or preference is justified or required by any agreement made or entered into by the Company."

The power of the Board would appear to be unlimited under that Clause.

COMMISSIONER ANGUS: That is Section 325.5?

MR. CARSON: 5 and 6.

THE CHAIRMAN: You would strike out only the proviso?

MR. CARSON: The proviso of 5 and the whole of 6.

THE CHAIRMAN: Don't you also propose that Section 325.6 should be repealed?



MR. CARSON: Yes, my lord. That is at the bottom of Page 152 that Mr. Jefferson has been referring to. I was reading from the first part of sub-section 5 down to the proviso. I think I have just completed reading from 5 what we should suggest should remain. Then, when you come to the word "provided" we submit the deletion should occur.

THE CHAIRMAN: Then you would repeal 6 entirely?

MR. CARSON: Repeal 6 entirely, yes, my lord.

MR. EVANS: It has no value; it only came there as a result of the case in the Supreme Court, the finding of the Supreme Court.

COMMISSIONER ANGUS: Well, would not the prima facie effect of repealing the clause saying "the Board shall not excuse" mean that there is just a possibility that the Board might excuse?

MR. EVANS: Perhaps I can give this explanation to this. If you will remember the circumstances under which this case went to the Supreme Court --

THE CHAIRMAN: What was that case again?

MR. EVANS: That was the Crow's Nest Pass Rate Case in 1925.

MR. CARSON: Page 155 of 1925 Supreme Court Reports.

THE CHAIRMAN: We have the reference already somewhere.

MR. EVANS: Would you like something from me on the point because I think it points up this sub-section 6. The Supreme Court held that the Agreement, the Crow's Nest Pass Agreement applied to stations in existence at the time the Agreement was made and did not apply to other stations and the discrimination which arose by applying the rates to those stations





and excluding the rates to the stations that did not exist were excused, as the sub-section puts it, on the ground that it was a statutory discrimination and that is the purpose of sub-section 6, to say that "you shall not excuse that form of discrimination based on the agreement". That is what sub-section 6 had reference to.

COMMISSIONER ANGUS: My other difficulty is this, and it may be just my ignorance in stating it this way, that we can conceive of a rate being just and reasonable although it was relatively lower than other rates if it had been in a sense prepaid by some consideration of value to the railway. Now, is that excluded by the legal background or is it something the Board may take into consideration?

MR. EVANS: That would certainly be my view, that with the removal of the proviso in sub-section 5 and the removal of sub-section 6, you would have left merely the first part of sub-section 5, which says: "that the Board shall not be bound by any agreement of this kind".

THE CHAIRMAN: Then, the effect of all previous agreements on freight rates then would disappear?

MR. EVANS: Yes, it would leave it entirely to the Board.

MR. MACPHERSON: That is a view, I think, that the provinces generally accepted and that is why so much opposition was offered to the railways.

MR. CARSON: There is a passage in our Submission that I have just found beyond what Mr. Jefferson was reading which I think puts this very clearly on Page 155 of the Submission, about the middle of the Page. It explains what led to this Decision



in the Supreme Court and perhaps I might read just a little bit of this:

"Throughout, the Canadian Pacific had taken the position that the reduced rates provided by the Crow's Nest Pass Agreement were not applicable to shipping points which were located on Canadian Pacific lines constructed after the date of the Crow's Nest Pass Agreement. The result of this was that there was discrimination between various shipping points and various areas of Canada. This discrimination would have been unjust under the discrimination section of the Railway Act but Canadian Pacific contended that the discrimination was forced upon it by statute and the Crow's Nest Pass level of rates could not be taken as a basis for determining whether this constituted unjust discrimination prohibited by the Railway Act.

These contentions of Canadian Pacific were upheld by the Supreme Court of Canada in *Governments of Alberta, Saskatchewan and Manitoba v. Canadian Pacific Railway Company*, 1925, S.C.R. 155", and then there is just a short passage from the Judgment:

"The rate reductions provided by the 1897 Agreement were unworkable without adversely affecting the Canadian economy and this was recognized by the Board of Railway Commissioners and by the Supreme Court. Mr. Justice Anglin's remarks, found at Page 174 of the above Judgment are apposite."

and I quote from the extract of his Judgment:



"If, under the existing law, unreasonable rates must be imposed or unfair discrimination sanctioned, with the resulting chaos and other ill effects so graphically portrayed in the opinion of Mr. Commissioner Boyce, the remedy lies with the High Court of Parliament. By amending the existing law it may either itself do, or may empower and require its delegate, the Board, to do as full and complete justice as circumstances admit. Fortunately parliament is presently in session. Whatever remedy, if any, it may in its discretion consider necessary or desirable can be speedily afforded."

And then the Submission goes on to tell about what was done by way of legislation and about the extensions that have been made in these rates since that time.

Now then, Mr. Jefferson, what further comment have you to make? You have spoken about the unfair treatment to other shippers.

THE WITNESS: I was saying that in my opinion, all freight rates should be subject to the jurisdiction of the Board of Transport Commissioners. It is only in this manner that fair treatment can reasonably be granted to all shippers and for all kinds of traffic.

Q. Yes?

A. The repeal of the statutory provisions of the Railway Act respecting rates on grain and grain products in Western Canada, and placing them within the jurisdiction of the Board of Transport Commissioners would in principle be the same as the action taken by the





Congress of the United States in repealing the so-called "Land Grant Rates" in that country and permitting the traffic to move at rates within the jurisdiction of the Interstate Commerce Commission.

Q. Now, Mr. Jefferson, I did not read any more from the Submission because I was going to ask you, this being a very important subject, to read from the Brief the historical outline of the Crow's Nest Pass Rates commencing at Page 153.

THE CHAIRMAN: May I put a question before we go on? You refer to "justice to other shippers". That is shippers of other goods, is it?

A. Yes, sir.

Q. Now, have we ever been told of any complaint by any other body of shippers of other goods about the preference given to the shipment of grain at these rates?

MR. SINCLAIR: Yes, there were submissions in British Columbia and also during the Commission's sittings in Toronto and I think also there is a reference in the submission of the Maritime Transportation Commission dealing with the question of the Crow's Nest Pass rates.

THE CHAIRMAN: I did not have that quite in mind, but does any class of shippers in Western Canada apart from Vancouver complain of any preference given as against them to the shippers of grain by this statute?

MR. SINCLAIR: Well, the only thing I can suggest, my lord, that comes to my mind offhand was that Mrs. Wade appeared in Regina and complained about the high rates on the movement of food stuffs into Saskatchewan. Well, of course, our position would be that they were higher than they would be if the grain was bearing a fair share of the burden of transportation cost.



THE CHAIRMAN: That is an argument.

MR. SINCLAIR: And I think that everybody that complained in the West about freight rates and their level must be in some respect complaining that the level is too high and overlooking the fact that it is as high as it is because of the low level of grain rates.

MR. MACPHERSON: I am satisfied that that would indeed be straining Mrs. Wade's evidence which I led in Regina to suggest that by inference or otherwise she would be suggesting the removal of this section of the Railway Act.

MR. COVERT: I think your lordship directed the question to find out whether there was any shipper of specific goods who had complained?

THE CHAIRMAN: That is what I meant.

MR. COVERT: I think it is safe to say that there has not been.

THE CHAIRMAN: I asked that as arising out of a statement made by Mr. Jefferson. Well, all right, we will pass on; I won't go any further. We will have all this put before us later. It does raise a point, you see.

MR. CARSON: As I understand it Mr. Sinclair was saying the Canadian Manufacturers' Association --

MR. SINCLAIR: And the Industrial Traffic League and the paper people on the Pacific coast.

THE CHAIRMAN: Then, you will bring all that before us at the proper time but I raised it now because it is important it should not be overlooked on either side.

MR. SINCLAIR: Oh yes, the Canadian Manufacturers' Association, of course, had a complaint that covered a great many commodities and a great deal of



traffic.

MR. FRAWLEY: Oh yes, and there was some cross-examination there too.

MR. CARSON: I am sure there is; there always is.

COMMISSIONER ANGUS: If I can ask one question. The suggestion here is that the unfairness to other traffic would be that it would be called on to make up a deficiency. Now, is it arguable that that deficiency would be larger if the railways had not received the consideration they did receive when they granted the Crow's Nest Pass rates, that is to say, that the users of other traffic might not actually be called on under present conditions to make up a larger percentage than they have had to make up?

MR. CARSON: Would you mind if that question was reread, Dr. Angus? Would you read it back please?

THE REPORTER: "If I can ask one question. The suggestion here is that the unfairness to other traffic would be that it would be called on to make up a deficiency. Now, is it arguable that that deficiency would be larger if the railways had not received the consideration they did receive when they granted the Crow's Nest Pass rates, that is to say, that the users of other traffic might not actually be called on under present conditions to make up a larger percentage than they have had to make up?"

MR. EVANS: Is your point, sir, that the value of the cash grant in some way is a continuing credit there?





COMMISSIONER ANGUS: Yes, my suggestion is that supposing that the railways had not made this agreement and not received any consideration, that the revenues that they have to get from their traffic today might be larger and therefore what the rates other than grain may be called on to make up might be just as much as these special grain rates?

MR. EVANS: I think my answer to that must be <sup>take</sup>this, that when it comes down to a deficiency, whether you in your rate base and take a rate of return on it or whether you take your requirements, it would make no difference today. The problem goes back further than that. It might have been that the condition might have been different throughout the earlier years. I do not know what would have happened then. Perhaps the shareholders would have got a higher return from the Canadian Pacific at the interval between the time the rates went into effect and the time the rates began to go up during the first war but as to now I don't think I can argue that the deficiency would be in any way changed by the initial granting of so much cash.

COMMISSIONER ANGUS: Supposing a particular railway had borrowed what it received as a grant and therefore had that much cash to carry it through. That is what I had in mind.

MR. EVANS: If you are on a rate based on the return on investment, the cash which was taken in at the time of the agreement, as a gratuity if you like, or as a consideration to the Agreement, would go into the property of the railway company presumably and would then be reflected in its investment which, for purposes of the railway return, would produce a return and if you are on a requirement basis, you might or might



not reflect it against the deficiency you establish today, whether your fixed charges would have been bigger or whether they had been affected at all by the failure to get that additional \$3,000,000.

COMMISSIONER ANGUS: Does that go so far as to say that the amount or quantum of the consideration that might have been received or was received in 1897 is irrelevant today?

MR. EVANS: I would think so, yes.

COMMISSIONER ANGUS: So that even if it had been ten times as much, the situation would still be the same?

MR. EVANS: I think so. The position would be that on an investment basis whether you got the money as a gift from a friend of the Company or whether you got the money earning it under an agreement as we did in this case, it would go into the property investment and would produce a return. We presumably gave some consideration to that.

COMMISSIONER INNIS: To turn to another aspect of the same problem, I don't know if Dr. Angus has developed it but I suppose it could be said that the Crow's Nest Pass Agreement was in a sense an instrument of government planning. Now, would it be fair to say that the time has arrived when such an instrument of government planning should be abandoned or would you go further and say that the Board of Transport Commissioners is now in a position to take on whatever planning elements were involved, that is to say, to become a sort of planning Board?

MR. EVANS: Well, I would certainly be against making the Board any kind of planning Board because I



do not think sufficient organization exists in a tribunal of that kind to do a job of planning, but I think this question as to whether there is some consideration remaining outstanding that ought to be compensated for is a matter of argument which I am certainly not going to object to facing when I have to. I am quite prepared to argue it at length.

THE CHAIRMAN: I think we will take a short adjournment.

---Recess----

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MR. CARSON: Q. Now, Mr. Jefferson, in order that we may get this subject in its proper setting, I was going to ask you to read from the Submission commencing on page 153, under the heading:- "Historical Outline of the Crow's Nest Pass Rates".

A. As a result of an agreement between the Canadian Pacific and the Dominion of Canada made in 1897, there was introduced into certain rail movements of grain and grain products a fixed level of rates on these commodities.

In 1897 Parliament passed "An Act to authorize a subsidy for a railway through the Crow's Nest Pass" (Statutes of Canada 60-61 Vic., Chap. 5). Under that Act the Governor-in-Council was authorized to grant to the Canadian Pacific a subsidy of \$11,000 per mile but not exceeding \$3,630,000 towards the construction of a line of railway from Lethbridge, Alta., through the Crow's Nest Pass, to Nelson, B.C. The grant was subject to the Company entering into an agreement incorporating the conditions outlined in the Act.

Under the agreement of 1897, to earn the grant provided by the statute Canadian Pacific entered into an agreement under which it assumed certain obligations. These obligations were of two types:-

- (1) as to the line of railway, its construction and operation;
- (2) as to rates.

As to the line of railway, the Company agreed



to build it following a certain course and to certain specifications, to complete it within a specified time, and, thereafter, to operate it forever properly maintained and with adequate rolling stock.

Under arrangements with the Province of British Columbia, Canadian Pacific by building the line of railway earned the right to certain lands. The agreement provided that these lands were to be sold to the public at prices approved by the Governor-in-Council and that the Company would convey to Canada fifty thousand acres of coal-bearing lands.

The line of railway was built and the Company received from the Dominion \$3,404,720.

As to rates, the Company agreed that local rates on the line of railway and certain other Canadian Pacific lines in British Columbia, and rates to and from such lines of railway "shall be first approved by the Governor-in-Council or by a Railway Commission" when established, and thereafter be subject to revision and control by such bodies. This covenant on the part of Canadian Pacific was necessary to give the Governor-in-Council or to the Board when established, jurisdiction over Canadian Pacific freight rate levels.

In 1897 Canadian Pacific, in regard to freight rates, was in a different position from other railway companies. Other railway companies had their freight rates subject to approval by the Governor-in-Council; on the other hand, rates on the Canadian Pacific were not subject to reduction by the Governor-in-Council until the earnings of the Company



exceeded ten percent on the capital investment. This was the result of a special provision in the Canadian Pacific Charter and subsequent amendments to the Railway Act. This relative freedom of rate making on lines of the Canadian Pacific must, it is submitted, be kept in mind when looking at the other covenants as to rates set forth in the 1897 agreement.

The other covenants as to rates in the 1897 agreement were:-

- (1) to grant in perpetuity varying percentage reductions on certain commodities from points on Canadian Pacific lines then in existence in Eastern Canada to points on Canadian Pacific lines then built in the West;
- (2) to grant in perpetuity a reduction of three cents per hundred pounds on grain and flour from points on Canadian Pacific lines then existing in the West to Fort William and points east thereof.

The rate reductions provided by the 1897 agreement or lower rates were in effect until 1918. In that year the railways' imperative need for additional revenue on account of increased costs of labour and materials was recognized by the Dominion Government which, by order under the War Measures Act, suspended the effect of the Crow's Nest Pass agreement and permitted the rates subject to the agreement to be increased. This order was applicable until 1919, when its effect was continued by an amendment to





Section 325 of the Railway Act, incorporated in the consolidation of 1919. The suspension of the Crow's Nest Pass rates on grain eastbound and the reductions on the specified commodities westbound was to be effective for a period of three years only. In 1922, pursuant to a statute the Governor-in-Council extended the suspension of the westbound rates under the Crow's Nest Pass agreement but reinstated the Crow's Nest Pass rates on grain. By further orders in 1923 and 1924 the Governor-in-Council again extended the suspension of the westbound rates.

Throughout, the Canadian Pacific had taken the position that the reduced rates provided by the Crow's Nest Pass agreement were not applicable to shipping points which were located on Canadian Pacific lines constructed after the date of the Crow's Nest Pass agreement. The result of this was that there was discrimination between various shipping points and various areas of Canada. This discrimination would have been unjust under the discrimination section of the Railway Act but Canadian Pacific contended that the discrimination was forced upon it by statute and the Crow's Nest Pass level of rates could not be taken as a basis for determining whether this constituted unjust discrimination prohibited by the Railway Act.

These contentions of Canadian Pacific were upheld by the Supreme Court of Canada in Governments of Alberta, Saskatchewan and Manitoba v. Canadian Pacific Railway Company, 1925, S.C.R. 155.



The rate reductions provided by the 1897 agreement were unworkable without adversely affecting the Canadian economy and this was recognized by the Board of Railway Commissioners and by the Supreme Court. Mr. Justice Anglin's remarks, found at page 174 of the above judgment are apposite:

"If, under the existing law, unreasonable rates must be imposed or unfair discrimination sanctioned, with the resulting chaos and other ill effects so graphically portrayed in the opinion of Mr. Commissioner Boyce, the remedy lies with the High Court of Parliament. By amending the existing law it may either itself do, or may empower and require its delegate, the Board, to do as full and complete justice as circumstances admit. Fortunately Parliament is presently in session, Whatever remedy, if any, it may in its discretion consider necessary or desirable can be speedily afforded."

In 1925, after the decision of the Supreme Court, Parliament did take action. Section 325(5) of the Railway Act 1919 was repealed and the present Sections 325(5) and (6) of the Railway Act 1927 were enacted -- (S.C. 1925, 15-16 Geo. V., chapter 52.)

Under the amendments made in 1925, special acts or agreements were not in any way to affect the power of the Board to fix just and reasonable rates and to change and alter rates as changing conditions or cost of transportation required; except that grain and flour from all points on all lines of railway west of Fort William to Fort William or Port Arthur were to be at the level fixed under the agreement of 1897. Moreover,



the agreement of 1897 fixing rates on grain and flour could not be used to justify unjust discrimination or undue or unreasonable preference respecting grain movements.

As a result of the statute of 1925, railways other than Canadian Pacific which had found it necessary in many cases for competitive reasons to apply the Crows Nest rates, became bound to apply them not only from competitive points but from all points. It followed also that Canadian Pacific, which had been compelled to apply such rates only from shipping points existing at the date of the 1897 agreement, had to apply such rates from all points. Moreover, at the time the agreement was executed, rates from shipping points on branch lines were often at a higher level than from points of an equal distance but located on the main line. These branch line points complained that their rates under this system were unreasonable and unjust and that their rates for the movement of grain and flour should be on the same basis, mile for mile, as main line rates.

The matter was considered by the Board in the General Freight Rates Investigation of 1927 and by its General Order No. 448, among other things, it ordered:

- "1. That the rates on grain and flour from all points on Canadian Pacific branch lines west of Fort William to Fort William, Port Arthur and Westfort be equalized to the present Canadian Pacific main line basis of rates of equivalent mileage groupings (the rates governed by the Crows Nest Pass agreement not to be exceeded); that the Canadian Pacific Railway Company publish rates in accordance with the above direction, and that all other railway companies adjust their rates





on grain and flour to Fort William, Port Arthur, Westfort and Armstrong to the rates so put into effect by the Canadian Pacific Railway Company, such changes to become effective on the twelfth day of September, 1927."

The effect of this order, which was applicable to all railways, was to reduce rates on grain and flour from certain points below the level existing under the Crows Nest Pass agreement.

The final result is that the eastbound rates on grain and flour are still 3¢ below the level established in 1897 with certain exceptions where the rates are more than 3¢ below that level because of the operation of the order of the Board above referred to. These rates now are applicable on grain and flour on the same basis, mile for mile, on main lines or branch lines from all points on all lines of railway west of Fort William to Fort William and Port Arthur.

A further effect of the 1925 statute was that in 1927 the Board ordered a reduction on grain and flour moving through Pacific Coast ports for export to the Crows Nest Pass level.

THE CHAIRMAN: Perhaps this has been explained before, but if not I should like to hear something about it now. I refer to the paragraph on page 157 which reads:

"The effect of this Order, which was applicable to all railways, was to reduce rates on grain and flour from certain points below the level existing under the Crows Nest Pass agreement."

MR. EVANS: I think Mr. Jefferson can explain that. I have had it explained to me. It is rather complicated.



MR. CARSON: Q. The Chairman is asking about this paragraph.

A. That has reference to branch line points which at the time the agreement was passed were higher than the main line rates distance considered to Fort William, and when the reduction of 3 cents was made the reduction was made from the rates as they were in the tariffs at that time.

THE CHAIRMAN: Q. That is to say, the reductions were not referable back to anything existing in 1897 because these lines did not exist then?

A. No. What I mean is this. We will say here is a main line and here is a branch coming down to the main line. Now we will say the rate from that point to Fort William was 20 cents.

Q. Yes?

A. And the rate from that point, the same distance, to Fort William, but being a branch line, was 21 cents. When the Crows Nest Pass Act was passed the 20 cent rate and the 21 cent rate were both reduced 3 cents, but under the 1927 order of the Board of Railway Commissioners the 21 cent rate had to come down to 20 cents, or perhaps to explain it a little more clearly, if this rate was 20 cents before the Act it came down to 17 cents, and if the rate was 21 cents before the Act was passed it came down to 18 cents, but after the 1927 order of the Board the 18 cents had to come down to 17 cents which was a reduction of 4 cents below the rate in effect in 1897.

MR. CARSON: That is what the paragraph means that the Chairman was asking about.

THE CHAIRMAN: These branch lines that you are dealing with were in existence in 1897?



THE WITNESS: Yes, sir.

This arose from the fact that prior to 1927 many complaints were made by British Columbia interests that the westbound rates on grain and grain products were unfair to British Columbia. They proposed that the Crows Nest rates be established from prairie points westbound to Pacific coast ports. The Board, after a hearing, ordered that the Crows Nest rates be applied on grain and flour to British Columbia coast ports for export. This order was reviewed by the Board in the General Freight Rates Investigation and by Order No. 448 of 26th August, 1927, among other things, it was ordered:

"2. That the rates on grain and flour from prairie points to Vancouver and Prince Rupert for export shall be on the same basis as the rates to Fort William, but in computing such rates, the distance from Calgary to Vancouver via the Canadian Pacific Railway shall be assumed to be the same as from Edmonton to Vancouver via the Canadian National Railways, namely, 766 miles."

It should be noted that while the Crows Nest Pass agreement and the statute of 1925 dealt with grain and flour, the Crows Nest Pass rates extend to commodities other than grain and flour. The commodities covered or affected by Crows Nest Pass rates are generally described as grain and grain products and will be found in Canadian Pacific Tariff W 819, C.T.C. No. W 3810. For example, bran and middlings are not grain and may not be flour but they receive the benefit of the Crows Nest Pass rates. The residuum of grain in brewing and distilling known as brewers' and distillers' dried





grain also receives the benefit of the Crows Nest Pass rates. The last mentioned commodities are really a dry mash.

It is thus apparent that the railways, whether technically required to do so or not, have in the past felt that it would be difficult to justify charging a higher rate on a by-product of the milling process of grain than on its most valuable product, flour. This was also true of the by-products of the brewing and distilling industry used for livestock feed in competition with bran and middlings which are by-products of the milling of flour. For similar reasons, as new feed products have been developed, such products as beet pulp residue used for live stock feeding have also secured the benefit of the Crows Nest Pass level of rates.

In 1948 the Board refused to apply the 21 per cent increase to domestic grain rates within Western Canada because in the Board's view this would have made too great a spread between domestic rates and Crows Nest Pass rates.

It is thus apparent that the effect of statutory rates such as those on grain and flour is to extend the benefit of them beyond the intention of the statute. This is not the least of the matters which, in the submission of the Canadian Pacific, justifies the restoration of these rates to the jurisdiction of the Board and a careful consideration by that Board as to the problems to which such rates give rise.

COMMISSIONER INNIS: Does "restoration" mean return?

MR. CARSON: When you say "justifies the restoration of these rates" I think you mean justifies the return?



MR. EVANS: Technically it is inaccurate because there was no Board at the time the statute was passed. That is one of the things we are guilty of in the rush with this brief.

THE WITNESS: We thus find that an agreement to apply the Crows Nest rates had effects far beyond the contemplation of the parties at the time the agreement was made, in the following respects:

(a) It was found impracticable to limit the application of these rates to the points covered by the agreement;

(b) It was found impossible to limit their application to the Canadian Pacific and, in consequence, railways not parties to the agreement were forced to apply these rates;

(c) The Board, on a complaint from British Columbia, found the difference between eastbound grain rates and the rates on grain through British Columbia ports for export unjustified. Accordingly the level of rates fixed by the agreement was extended in a way which the parties to the agreement never contemplated;

(d) The railways found that although the agreement covered only grain and flour, it was not practicable to deny the extension of these rates to by-products of the milling of grain and of other competing products;

(e) The effect of the statutory fixing of rates on grain and flour has been reflected by order of the Board in the domestic grain rates in Western Canada.

MR. CARSON: Q. That is in 1948?

A. Yes, sir.

It is abundantly clear that the agreement, in so far as it related to freight rates, proved to be wholly unworkable.

(Page 15156 follows)



"In the view of the Supreme Court of Canada it produced 'chaos and other ill effects that could only be remedied by Parliament.' It is perfectly clear that the Crow's Nest Agreement, as interpreted by the Supreme Court of Canada, affords no justification for the rates that were imposed by the 1925 amendment and the other rates that have of necessity been brought into line with the Crow's Nest Pass rates.

Canadian Pacific wishes to emphasize that in advocating the repeal of the provisions of the Railway Act relating to the rates on grain and flour, it cannot be accused of seeking merely to avoid a contractual obligation. Rather the question is whether the burden of the original obligation having been transferred to others, not parties to the Agreement, those others are to be required to continue to carry that burden.

Canadian Pacific also points out that it received less than three and one-half million dollars under the terms of the Crow's Nest Pass Agreement. The reduction in grain rates between 1897 and 1903, when the Canadian Pacific became subject to regulation of its rates by the Board, was borne wholly by the Canadian Pacific and was not in any sense borne by other shippers. This was because until 1903 the Company was permitted by statute to have net earnings up to ten per cent of its capital investment without interference by the Governor-in-Council with the level of its rates and also because in that period it never at any time reached that level of earning power."

THE CHAIRMAN: Pardon me. At about the middle





of that paragraph you said:

". . . when the Canadian Pacific became subject to regulation of its rates by the Board, was borne wholly by the Canadian Pacific and was not in any sense borne by other shippers."

You mean, I suppose, carriers?

MR. EVANS: It could not be passed on.

THE CHAIRMAN: To "other shippers"?

MR. EVANS: I do not think we are attempting to distinguish between shippers and consumers, if that is what you have in mind.

THE CHAIRMAN: I wanted to make sure just what you have in mind.

THE WITNESS: It means that it was not borne by the public.

THE CHAIRMAN: I see, now.

COMMISSIONER INNIS: You could have said, "other shippers".

THE CHAIRMAN: Yes, shippers of other commodities. I see.

THE WITNESS: "Between 1903 and at least 1917, when the first general increase in rates was effective, the reduction brought about by the Crow's Nest Pass Agreement was probably in a large part borne by the Canadian Pacific because it did not during those years receive net earnings which in any way could be considered a maximum level of earning power, nor did it obtain any general increase in its rates.

During the war years the railways were permitted to increase all rates including the rates on grain and grain products. After 1922, however, when the Crow's Nest Pass rates were

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restored, the probability is that the greater burden imposed by the low level of these rates has fallen upon shippers and consignees of other traffic.

That the burden of the low level of grain rates at present rests mainly upon the shippers and consignees of other than grain traffic can be demonstrated by reference to the Board's Judgment in the 21% Case. At page 66 of the Judgment (XXXVIII J.O.R. & R.) the Board found the deficiency in revenue of the Canadian Pacific at something more than thirty million dollars. This additional revenue had to be derived by an increase in rates on traffic having a revenue value to the Canadian Pacific of slightly more than \$137,000,000 and the resulting increase was therefore 21%. If it had been applied also to grain traffic the increase would have been applied to a total of approximately \$170,000,000 of traffic and the resulting increase would have been only about 18% instead of the 21% allowed by the Board on the formula it adopted."

MR. CARSON: Q. Now, I want to bring you back to this question: What commodities were included in the Crow's Nest Pass agreement of 1897?

A. Grain and flour.

Q. What commodities were included in the grain tariff publishing the official reduction in grain rates effective the 1st of September, 1899?

A. Grain, flour, oatmeal and millstuffs.

Q. What commodities are today afforded the benefit of Crow's Nest Pass rates from Prairie points eastbound to Fort William and Port Arthur? Have you got any statement showing that?

A. Yes, sir, I have an exhibit containing the



information.

MR. CARSON: That will be Exhibit 160.

EXHIBIT No. 160: Filed by : Canadian Pacific  
Mr. Carson: Railway Company -  
: List of Commodities  
: contained in Can-  
: adian Pacific Rail-  
: way tariff No. W-819,  
: C.T.C. No. W.3810 -  
: applicable from  
: points in the Prairie  
: Provinces to Fort  
: William and Port  
: Arthur, Ont., etc.

MR. CARSON: Q. This Exhibit 160 is headed,  
"List of Commodities contained in Canadian  
Pacific Railway Tariff No. W-819, C.T.C. No.W.3810 -  
applicable from points in the Prairie Provinces  
to Fort William and Port Arthur, Ontario, subject  
to Crow's Nest Pass rates.

A. Yes, sir. The tariff reference since that  
was made up on the 1st of December, 1949, is now  
C.P.-W-819-A.

Q. That is, in place of?

A. In place of Canadian Pacific Railway tariff  
No. W-819; and in addition, the C.T.C. tariff is now  
No. W-4035 instead of W-3810. The tariff has been  
reissued since this exhibit was prepared.

Q. I notice that the exhibit contains an  
asterisk in front of most commodities. What is the  
significance of the asterisk?

A. The asterisk denotes the commodities  
to which the Crow's Nest Pass rates have been applied  
since the agreement was made in 1897.

Q. Yes; and are there any commodity mileage  
rates on grain and grain products higher than the  
Crow's Nest rates?

A. Yes, sir, and I have an exhibit.





Q. You have an exhibit to show that?

A. Yes, sir.

MR. CARSON: This will be Exhibit No. 161.

EXHIBIT No. 161: Filed by : Statement entitled  
Mr. Carson: Canadian Pacific Rail-  
: way Company - State-  
: ment Showing Comparison  
: of Commodity Mileage  
: Rates on Grain and  
: Grain Products in  
: Prairie Territory with  
: Ontario-Quebec  
: Territory.

MR. FRAWLEY: It seems very strange, my lord, that this afternoon for the first time the Canadian Pacific has decided not to distribute its exhibits in the way they have always been distributed heretofore. There is plenty of staff. We have always been courteous. But today, for some reason or other, my friends of the Canadian Pacific simply thrust all their exhibits for provincial counsel on my desk, necessitating my friends of the provinces coming up to my desk and having to ferret around for their exhibits.

It may be just a small matter, but it seems a pity that the Canadian Pacific, with all its resources, could not extend to us that courtesy which was adopted by us from the very beginning of these proceedings.

MR. EVANS: I do not think there is any intention of discourtesy.

MR. FRAWLEY: Maybe not, but it seems to approach it.

MR. EVANS: Am I to be expected to make a tour of the courtroom every time we tender an exhibit?

MR. CARSON: It is just a matter of who passes out the song sheets.

MR. CARSON: Q, Exhibit 161 is a statement showing:

"Comparison of Commodity Mileage Rates on Grain



and Grain Products in Prairie Territory with  
Ontario-Quebec Territory."

That statement shows rates in the two territories  
prior to April, 1948?

A. Yes, sir.

Q. And effective November 8, 1949?

A. That is right.

Q. What is the reason for the difference between  
the rates shown "prior to April 1948" and those shown  
subsequent to November 8, 1949?

A. The reason for the difference is that the Board  
refuses to apply either the 21 per cent increase or the  
8 per cent interim increase to the commodity mileage  
rates on grain and grain products in Prairie territory;  
whereas these increases were applied to the rates in  
Ontario-Quebec territory.

Q. Yes.

THE CHAIRMAN: Did you say that the Board  
refused? Were the reasons for the Board doing so given?

MR. EVANS: Yes. He said that the reason the  
Board gave was that the spread between the Crow's Nest  
Pass rates and the domestic rates, in the opinion of the  
Board, was too great if they were going to increase the  
domestic rate, and it was a holding down of the domestic  
rate for the operation.

MR. CARSON: Q. Have you any further comment  
to make on this statement?

A. The Commission will observe, from a study of  
Exhibit 161, that, generally speaking, the commodity  
mileage rates in Ontario and Quebec are now, with two  
exceptions, higher than the corresponding rates in the  
Prairie territory.

Those exceptions are where 50 miles for the



Prairie rate is 11 cents, and the Ontario-Quebec rate is 10-1/2; and 125 miles, the rate in both Prairie and Ontario-Quebec territory today is 17 cents.

Q. Yes?

A. I might also say that prior to April 8, or prior to April, 1948, the rates in Prairie territory were always higher than the rates in Ontario-Quebec territory.

But today the situation is just reversed. The Prairie territory rates are higher than the Ontario-Quebec territory rates.

THE CHAIRMAN: We shall adjourn now.

---At 4.45 p.m. the Commission adjourned until tomorrow, Tuesday, February 14, 1950, at 10.30 o'clock a.m.

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A.R.

*Canada*  
ROYAL COMMISSION  
ON  
TRANSPORTATION

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,  
TUESDAY,  
FEBRUARY 14, 1950

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN  
HAROLD ADAMS INNIS - - - COMMISSIONER  
HENRY FORBES ANGUS - - - COMMISSIONER

-----

G. R. Hunter  
Secretary

P. L. Belcourt  
Asst. Secretary

-----

COUNSEL APPEARING:

F.M. Covert, K.C.	}	Royal Commission on Transportation
G.C. Desmarais, K.C.		
A.H. Hart	)	Canadian National Railways
C.F.H. Carson, K.C.	}	Canadian Pacific Railway
F.C.S. Evans, K.C.		
I.D. Sinclair		
C.D. Shepard	)	Province of Manitoba
M.A. MacPherson, K.C.	)	Province of Saskatchewan
J.J. Frawley, K.C.	)	Province of Alberta
F.D. Smith, K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade
J. Paul Barry		
C.W. Brazier	)	Province of British Columbia
F.R. Hume	}	Canadian Automotive Trans- portation Association
M.L. Rapoport		

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Ottawa, Ontario,  
Tuesday, February 14, 1950

MORNING SESSION

MR. COVERT: If your lordship pleases, you will recall that Mr. E. J. Young appeared before the Commission on the 6th of February, I believe, and at page 14128 of the transcript of evidence he refers to the figure of \$93,555,000 as the cost to the C.N.R. in increased wages during the year 1948 as a result of the 17 cent increase in wages retroactive to March 1st, 1948. Mr. Young has now advised that he has checked this figure and that this is incorrect and should have read \$33,000,000 for the year 1948. Pages 14137 to 14139 also refer to this same question, and where the figure \$93,555,000 appears it should read \$33,000,000.

C. E. JEFFERSON, RECALLED

EXAMINATION BY MR. CARSON (CONT'D)

Q. Mr. Jefferson, at the conclusion of yesterday's evidence when you were discussing Exhibit 161 you informed the Commission that prior to April 8, 1948, commodity mileage rates on grain and grain products in prairie territory were always higher than the rates in Ontario and Quebec territory while since November 8, 1949, the situation is reversed as the rates in the prairie territory are lower than the rates in the Ontario-Quebec territory. You also stated this was due to the Board of Transport Commissioners not permitting the 21 per cent and the 8 per cent increases to apply to the rates in prairie territory while these increases were applied to the rates in Ontario-Quebec territory. First I want to ask you what the significance of the date, November 8, 1949,



is?

A. The significance of the date, November 8, 1949, is that the rates in the Ontario-Quebec territory did not have the 8 per cent applied to them until that date, that is, they were not increased 8 per cent effective the 11th of October, 1949. The effective date was the 8th of November, 1949.

Q. Generally the increase went into effect on October 11, 1949, but in the case of these rates it did not go into effect until November 8, 1949?

A. That is right.

Q. Have you any further observations to make on that exhibit 161?

A. Yes, sir. The commodity mileage rates on grain and grain products in Exhibit 161 in prairie territory prior to April, 1948, and effective November 8, 1949, are the same. The rates in the Ontario-Quebec territory effective November 8, 1949, are much higher than the rates in effect prior to April, 1948. This was not only due to the rates prior to April 8, 1948, having been increased 21 per cent and 8 per cent, but also because the rates in Ontario-Quebec territory, having been competitive rates, have received an separate increase effective the 2nd of July, 1949. I am mentioning this because if the 21 per cent and 8 per cent increases were applied to the rates in Ontario-Quebec territory prior to April, 1948, you would not obtain the rates shown in the exhibit as effective November 8, 1949.

Q. Now, are there any commodity rates in eastern Canada lower than the commodity mileage scales that are shown on Exhibit 161?

A. Yes, sir. There are special commodity rates



from Fort William, Port Arthur, all rail, to destinations in eastern Canada as well as special commodity rates known as ex lake rates from Port McNicoll and other Georgian Bay ports to destinations in eastern Canada.

Q. How do these rates compare with the commodity mileage scales in eastern Canada and western Canada?

A. They are in some cases lower and in some cases higher than the commodity mileage scale in western Canada.

Q. How do they compare with the Crows Nest level of rates?

A. They are in all cases very substantially higher than the Crows Nest Pass basis of rates.

Q. And does this answer you have made include the rates that have been described as at and east grain rates?

A. No, the at and east grain rates are applicable from Georgian Bay ports to eastern Canadian ports for export, and they apply only on movements of bulk grain which originate in western Canada and which have had rail and water movement from western points. I have dealt with these grain rates elsewhere in my evidence. That evidence was put in in December.

Q. Have you another statement to present to the Commission on this subject, Mr. Jefferson?

A. Yes, sir.

Q. This will be Exhibit 162.

THE CHAIRMAN: What is Exhibit 162?

MR. CARSON: It is entitled Statement of Crows Nest Rates on Grain and Flour, Prairie Points to Fort William and Port Arthur, Ontario, compared with commodity mileage rates for the same distances.

EXHIBIT NO. 162 -- Statement of Crows Nest rates on grain and flour, prairie points to Fort William and Port Arthur, compared with commodity mileage rates for the same distances.



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MR. CARSON: Q. I think the title of the exhibit describes it, but what does it also show?

A. This exhibit shows the percentage by which the Crows Nest rates are lower than the commodity mileage rates in western Canada.

Q. That is shown in the extreme right-hand column?

A. Yes, sir.

Q. What do you point to there?

A. I draw attention to the fact that this exhibit shows that in each case the Crows Nest rates are lower than the prairie commodity mileage rates for equal distances by percentages ranging from 42.9 per cent to 54.3 per cent. From Winnipeg to the lakehead the Crows Nest rate is 53.3 per cent below the commodity mileage rate. From Regina it is 51.2 per cent below the commodity mileage rate and from Calgary the Crows Nest rate is  $48\frac{1}{2}$  per cent below the mileage rate.

Q. And those are commodity mileage rates in western Canada?

A. Yes, sir, which did not receive either the 21 per cent or 8 per cent increases.

THE CHAIRMAN: How do you arrive at what you call commodity mileage rates? Is that an average of the rates for all commodities?

MR. CARSON: Q. Would you explain that to the Chairman?

A. We always had what we call grain and grain products mileage rates in western Canada for local movements.

THE CHAIRMAN: Q. For local movements; this is the difference between a local movement and through movement on the same commodity?

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A. Yes, sir.

MR. CARSON: Then he is pointing out that these commodity mileage rates in western Canada have not been subject to any of these increases for the reasons he gave.

THE CHAIRMAN: Yes.

COMMISSIONER ANGUS: Q. Does this comparison make any allowance for the 130 miles that are not counted--

A. No, sir, the so-called constructive distance of 130 miles between Fort William and Winnipeg has no bearing on either the Crows Nest Pass grain rate or the commodity mileage rates.

MR. EVANS: Q. Perhaps you might tell Dr. Angus how that operates, how the constructive mileage rate operates?

A. The constructive distance between Fort William and Winnipeg of 130 miles applies only to class rates and commodity rates related to the class rates between Fort William and points in western Canada, and they are also used in making rates between eastern and western Canada.

THE CHAIRMAN: Also used in what?

MR. CARSON: In making rates between eastern and western Canada.

THE CHAIRMAN: Q. That is from the east to the west?

A. Yes, sir. The application of the constructed miles is this. The distance from Fort William to Winnipeg is 420 miles. The class rates between Fort William and Winnipeg are the ~~standard~~ mileage tariff for 420 miles less 130 miles or 290 miles.



In other words, the rates are on the scale of 290 miles of the standard tariff instead of 420 miles of the standard tariff. To points west of Winnipeg you use your 290 miles from Fort William to Winnipeg plus the actual mileage west of Winnipeg, and to the through distance so determined, you apply it to the standard mileage tariff.

COMMISSIONER ANGUS: Q. My question is: If the Crows Nest rates did not exist, would the carriage of grain be affected by that constructive mileage?

A. No, sir.

Q. Would the commodity rates take that into account?

A. No, sir, they would not. If the Crows Nest Pass rates were increased, they would not be increased to the basis of the local mileage rates or commodity mileage rates, nor would you use the 130 miles constructive distance between Winnipeg and Fort William. You would determine what the rate should be on the grain from Prairie points to Fort William without regard to either of those factors.

MR. COVERT: Would the reporter please read back the last answer?

THE REPORTER: No, sir, they would not. If the Crows Nest Pass rates were increased, they would not be increased to the basis of the local mileage rates or commodity mileage rates, nor would you use the 130 miles constructive distance between Winnipeg and Fort William. You would determine what the rate should be on the grain from Prairie points to Fort William without regard to either of those factors.

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MR. CARSON: Q. I think you stated earlier in your examination, Mr. Jefferson, that in your opinion it would not be unfair to make a comparison of rates charged by railways in the northern part of the United States with the rates charged by Canadian railways?

A. I did, yes, sir.

Q. Was the Great Northern Railway one of those which you mentioned?

A. Yes, sir, it was.

Q. Have you made a study of the rates charged for the hauling of grain by the Great Northern Railway to the head of Lake Superior and to Seattle, compared to those charged by the Canadian Pacific Railway to the lakehead and also to Vancouver for export?

A. Yes, sir, I have.

Q. Would you please explain to the Commission the table at page 89, and the graph at page 90 of the appendix?

A. Page 89.

MR. FRAWLEY: In order to have the record clear, I take it that Mr. Jefferson is now passing the part of the brief called:

"Economic Aspects of Grain Rates", which is on page 161, and is going on to the caption on page 165:

"Comparison of Rates on Grain in Canada and the United States".

MR. CARSON: Yes.

MR. FRAWLEY: That is for another witness, I take it?

MR. CARSON: Mr. Jefferson is not dealing with that aspect of it.

1919, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853

NEW YORK, 1919, 1921, 1923

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COMMISSIONER ANGUS: Q. Perhaps Mr. Jefferson would explain a word on page 160. At the bottom of the page I read:

" . . . the Canadian Pacific because it did not during those years receive net earnings which in any way could be considered a maximum level of earning power, nor did it obtain any general increase in its rates."

What is meant by the phrase "maximum level of earning power"?

MR. EVANS: If you will look at page 27 of the appendix and the factors which allowed the earning of a profit of 10 per cent on the capital invested in the railway undertaking, you will find that the return of investment on page 27 of the appendix -- you will find that in no case was the rate of return -- it is about midway along the page, the column headed:

"Rate of Return on Net Railway Property Investment".

And in no year did the rate of return get as high as 10 per cent.

COMMISSIONER ANGUS: I was taking it with the statement on page 160 which reads:

"This was because until 1903 the company was permitted by statute to have net earnings up to 10 per cent. . ."

MR. EVANS: Yes.

COMMISSIONER ANGUS: Does that affect the period 1903 to 1917?

MR. EVANS: No. I think you must take it this way: that the maximum level was looked upon as 10 per cent, although the statute which said that Parliament and the Governor in Council might not

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MR. EVANS: ...

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interfere until that level had been reached. There was nothing to suggest that was not a permissible level of earning power.

THE CHAIRMAN: That earning was achieved in 1903?

MR. EVANS: Never at any time in the history of the company was that level attained.

THE CHAIRMAN: Then what is the distinction between before and after 1903?

MR. EVANS: In 1903, section 20 of the Canadian Pacific statute no longer had any statutory effect. It was not a factor.

THE CHAIRMAN: What happened to it?

MR. EVANS: The story runs this way: in the Consolidated Railway Act of 1879 there was a provision that Parliament might not interfere so as to lower the level of rates unless the railway were receiving profits in excess of 15 per cent.

In the statute of 1881 incorporating the Canadian Pacific, there was a section which said that, in the case of the Canadian Pacific, the right of Parliament to interfere should be on the level of 10 per cent rather than 15 per cent, as set forth in the Consolidated Railway Act.

In the revision of the Railway Act in 1903 -- and I am speaking merely from memory -- that section of the Consolidated Railway Act to which section 20 of the Canadian Pacific Act had reference was repealed. And therefore the fact was that the application of that section in the Canadian Pacific Act also ceased to apply.

THE CHAIRMAN: And the rates became then subject to Parliament, the same as other railway rates.





MR. EVANS: It must be assumed that the permissible level of the Canadian Pacific remained at 10 per cent, although in fact it was never achieved.

COMMISSIONER ANGUS: My difficulty is concerning the paragraph in the middle of page 160, the Canadian Pacific points out that prior to 1903 when a statutory level did apply, it contrasts it with the period when it did not apply. So your explanation seems to be that there was no real contrast between the two periods.

MR. EVANS: There was only a technical contrast prior to 1903. You see, there was no Board of Transport Commissioners.

Now then, Parliament and the Governor in Council had certain powers; but the statute prevented them from exercising those powers until a certain level of earnings had been reached.

After 1903, however, there was no restriction on the Board which was formed in that year, as to the level of permissible earning power. But the Board not having exercised any power to reduce the rates, and there being nothing to indicate that that 10 per cent was no longer a permissible level, I think it is arguable that we were entitled at least, *prima facie*, to 10 per cent, which we have never in fact achieved.

COMMISSIONER ANGUS: So I take it that just and reasonable rates from 1903 to 1917 would be rates which gave the railway anything up to 10 per cent on its stock?

MR. EVANS: In the whole, on the whole.

COMMISSIONER ANGUS: But since then they have come to have a much more precise meaning? Since 1917?



MR. EVANS: I would say less precise. It was rather precise in the upper limits before 1903. In fact, it was set by statute.

COMMISSIONER ANGUS: I understand that.

MR. EVANS: And less precise in that the Board had power, in general terms, after 1903.

COMMISSIONER ANGUS: Yes. Up to 1903 you had a clear statutory difficulty.

MR. EVANS: Yes.

COMMISSIONER ANGUS: And from 1903 to 1917 you think it is arguable that that standard carried on?

MR. EVANS: I think it is arguable that it carried on in the absence of any action by the Board, although it had power to do so, to look upon that as a reasonable maximum.

COMMISSIONER ANGUS: But subsequently we come into a period in which there is no question of the maximum.

MR. EVANS: No.

COMMISSIONER ANGUS: But a question of a much more exact standard with less variation?

MR. EVANS: Yes, they fixed it from 1917. The first increase comes until the 1946 case on a level of requirements.

THE CHAIRMAN: 1917 was when the Board first became active in the matter of fixing rates?

MR. EVANS: No, sir. It is the first case of a general increase.

THE CHAIRMAN: It is the first time they did anything in the way of revising the rates?

MR. EVANS: No, sir.

THE CHAIRMAN: I thought you said between 1903 and 1917 nobody interfered, therefore you would



assume certain things; therefore the rates must have been just and reasonable.

MR. EVANS: There is no doubt about it.

THE CHAIRMAN: So it follows that 1917 was when the Board began to take, or to make a general review of the rate situation in Canada.

MR. EVANS: I do not want to get at cross purposes with you. That was a case in which the railway asked for an increase in rates, and it came into an issue before the Board as to what the proper level of rates should be.

THE CHAIRMAN: That was in 1917?

MR. EVANS: Yes.

THE CHAIRMAN: That is what I was saying.

MR. SHEPARD: Mr. Evans referred to page 27 of the **appendix** to the column headed, "Rate of Return on Common Railway Property Investment."

That is page 27 of the Canadian Pacific appendix; and he pointed out that in that column it has never shown a 10 per cent figure.

I may be wrong in my understanding, and if I am, I would like to be corrected; but my understanding was that the 10 per cent was a return on common stock earnings, earnings on common stock.

MR. EVANS: No, no!

MR. SHEPARD: I would like to have the record made clear about it.

MR. EVANS: The record can be cleared up at once on that.

There are three parts to 44 Victoria 1881. Chapter 1 is followed by an agreement, and that agreement has in a schedule to it the incorporating statute; and what I am speaking about now is section 20





of the schedule to the so-called foregoing contract, providing for increases; and this is what the section says:

"20. The limit to the reduction of tolls by the Parliament of Canada provided for by the eleventh sub-section of the 17th section of 'The Consolidated Railway Act, 1879,' respecting TOLLS, is hereby extended, so that such reduction may be to such an extent that such tolls when reduced shall not produce less than ten per cent per annum profit on the capital actually expended in the construction of the railway, instead of not less than fifteen per cent per annum profit, as provided by the said sub-section; . . ."

There is something more to it, but that is the substance.

(Page 15185 follows)



MR. CARSON: Q. Now, the subject you were going to deal with, Mr. Jefferson, is to be found, I think, at page 165 at Part I of the Canadian Pacific submission under the caption "Comparison of Rates on Grain in Canada and the United States". You were going to turn to the Table at page 89 and the graph at page 90 of the Appendix, is that right?

A. Yes, sir.

Q. Now, would you explain or tell the Commission what you want to say about those, the Table and the graph?

A. Page 89 of the Appendix to Part I shows the history of the rates on wheat from Regina to Fort William for a distance of 776 miles, and from Whately, Montana, to Duluth for a distance of 772 miles during the period from 1898 to 1949.

Q. Those are comparable distances in Canada and the United States?

A. Yes, sir.

THE CHAIRMAN: Mr. Jefferson, have you also any figures here showing the comparable volumes of the movements?

A. The volumes?

Q. Between, for instance, Regina and Fort William on the one hand and Whately and Duluth on the other?

A. I have not the volume of the movements to Duluth, no sir, but there is a very heavy movement of grain from points in Minnesota, North Dakota and Montana to Duluth; while in an exhibit which I was going to file later, showing car mile earnings, I

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explain how I arrive at the average weight per car on the line of the Great Northern Railway, and I have looked at the reports showing the movement of grain and grain products on the line to the Great Northern. I have not them here, but I can say it is very substantial.

MR. CARSON: Q. Now then, what were you going to say about this Table at page 89?

A. This exhibit shows that from Regina to Fort William prior to August 1898, the rate was 23¢, and then by reason of the Crow's Nest Pass agreement it was reduced in two stages: one cent and a half effective August 1st, 1898, and another cent and a half effective September 1899, making the rate 20¢. Then by reason of the so-called Manitoba Agreement with the Canadian Northern Railway, the rate was reduced to 18¢, and in March 1918 it was increased to the maximum of the Crow's Nest Rates of 20¢. Then it had increases, another increase in 1918 and in 1920; then in 1922 - -

Q. Now, that increase in 1918, to 24 was when the rates were suspended?

A. I beg your pardon?

Q. That increase to 24¢ in August 1918, was that when the rate was suspended?

A. When the application of the Crow's Nest Act was suspended.

Q. Suspended?

A. Yes, sir. August 1918, the rate became 24¢. And it reached a maximum of 32½¢ in September, 1920, then reduced in January 1921, and





in December 1921 in the general rate reduction cases. Then July 6, 1922, the Crow's Nest Pass rate of 20¢ was restored by an Act of Parliament and the rate has remained 20¢ ever since that time.

In the United States from Whately to Duluth the rate prior to August 1898 . was 40¢. Then it was reduced on two occasions , and in October 1909 it was 24¢. Then it went up on different dates (I won't read them all) and in August 1920 it became 40¢. That remained in effect until the reduction case of 1922, when it became 35¢, and it was reduced later in February 1932 to 34¢, since which time it has gone up steadily and it is now 55¢.

I might mention: that in July 1922, or rather, first, in October 1909, the difference between the rate from Regina to Fort William and Whately to Duluth was but 6¢. The difference today is 35¢. When the Crow's Nest rate was restored in July 1922, the difference was 15¢.

Q. Mr. Jefferson, could you tell the Commission the significance of these dates, why these particular dates have been selected?

A. These dates, the dates shown on page 89 are the dates on which there was a change in either the United States or Canada, so that the history would be complete from both points. That is why in some instances you see, or we go down here, and you see from July 2, 1922, from Regina to Fort William the 20¢ is at every date; but from Whately to Duluth the reason why the 20¢ was repeated from Regina is because there was a change in the United States.



Q. Now, what about the graph at page 90, if you have nothing more to say about the table?

A. The graph at page 90 merely portrays the information contained on page 89, and it shows in graph form what has occurred in the rate from Whately to Duluth from 1898 to date and from Regina to Fort William from 1898 to date.

Q. The broken line being Whately to Duluth, and the solid line Regina to Fort William?

A. That is right.

Q. Now then, in referring to page 166 of Part I of the Canadian Pacific submission, reference is made, I think, to tables that appear at pages 91 and 92 of the Appendix. I would like you to explain to the Commission, if you will, the significance of the tables at page 91 and 92 of the Appendix.

A. Well, the tables at pages 91 and 92 of the Appendix, the statement of the changes in rates on wheat from points in Western United States to Duluth Minnesota, and from Western Canada to Fort William, Ontario, from January 1st, 1920 to October 1st, 1949.

Q. That is, from various points of origin?

A. Yes, sir.

(Page 15191 follows)



Q. These are carloads, I take it, from the heading?

A. Carload rates, yes sir. Now, we have taken from Western Canada to Fort William from points -- Winnipeg, Brandon, Regina, Moose Jaw, Saskatoon, Medicine Hat, Calgary and Edmonton, and compared the rates to Fort William from those points with the rates from points of approximately equal distance to Duluth.

Now, for example, we compare York, N.D., 420 miles to Duluth, with Winnipeg, 420 miles to Fort William. Then we compare Whately, Mon., 772<sup>miles</sup>/to Duluth, with Regina, 776 miles to Fort William. Then we compare Eureka, Mon., 1240 miles to Duluth, with Calgary, 1242 miles to Fort William.

Now, without going into details of changes in the rates that have taken place to Fort William and Duluth from January 1920 to date, I would just draw the Commission's attention to the bottom part of Page 92. Now, it shows that during the period from 1920 to 1950 the rate from York, North Dakota to Duluth has been increased 17 cents or 94.4 per cent, while that rate from Winnipeg to Fort William has not been changed. From Whately, Mon., to Duluth the rate has been increased 25 cents or 83-1/3 per cent while from Regina to Fort William the rate has been reduced 4 cents or 17 per cent and from Eureka, Mon., the rate to Duluth has been increased 36 cents or 83.7 per cent, while from Calgary to Fort William the rate has been reduced 4 cents or 13 per cent.

Q. And just upon that little section at the end you have the present rates for these comparable distances?





A. Yes, sir.

Q. Now, then, again by reference to Page 166 of Part I but looking at pages 93 and 94 of the Appendix, you have some further data in the Appendix. At Page 93 the title is: "Comparison of Rates on Wheat for Hauls of Similar Distances, Western Canada to Fort William v. Western United States to Duluth". Would you explain that, Mr. Jefferson?

A. Yes, sir, Page 93 of the Appendix shows a comparison of the rates on wheat from Western Canada to Fort William and Western United States to Duluth for the same distances. I will just give three examples to point out what this Exhibit shows. From Winnipeg to Fort William for 420 miles the rate is 14 cents.

Q. The rate is in the circle?

A. Yes, sir, but I was looking at the Chart. From York to Duluth, 420 miles, the rate is 35 cents. The rate to Duluth is 21 cents or 150 per cent higher than to Fort William or, expressed in another way, the rate to Fort William is 21 cents or 60 per cent lower than from York to Duluth. Now, in the case of Regina, the distance to Fort William is 776 miles or 20 cents; from Whately, Mon., to Duluth, 772 miles, 55 cents. The rate to Duluth is 35 cents or 175 per cent higher than to Fort William, while the rate to Fort William is 35 cents lower or 63.6 per cent lower than to Duluth. One more example. From Calgary to Fort William for 1242 miles the rate is 26 cents. From Eureka, Mon., to Duluth, 1240 miles, the rate is 79 cents. The rate to Duluth is 53 cents or 203.8 per cent higher than to Fort William, and, expressed the other way, the rate to Fort William is 53 cents or 67.1 per cent lower than to Duluth.



COMMISSIONER INNIS: Does the Panama Canal have any effect on those American rates?

A. I beg your pardon?

MR. CARSON: Does the Panama Canal have any effect on those American rates?

A. Not that I know of to Duluth.

COMMISSIONER INNIS: It would be partially effective, would it not, in keeping down the Alberta rates?

A. To Fort William?

Q. Yes.

A. I would not say so, no.

Q. There would be no competition between Vancouver and Fort William?

A. No, sir, the answer to that question is that by reason of the Crow's Nest Pass rates to Fort William, the Board required the railways to publish reduced rates to Vancouver but if the rates to Fort William went up, the rates to Vancouver for export would also go up.

Q. I understand that, yes, but there is a very wide discrepancy, that is to say the discrepancy has gone up very materially as you go West and you would expect the Pacific Coast to have some influence on the narrowing of the discrepancy.

A. But the rates to Vancouver for export were not made first; the rates to Fort William were made first and then the Board required the railways to publish reduced rates to Vancouver for export in relation to the reduced rates to Fort William. Now, if those rates went up, the Panama Canal would not affect it at all.



Q. But I would have thought that the increasing spread between American and Canadian rates as you proceed West is out of line with what one might expect from any influence of Pacific Coast competition?

A. Have I answered your question?

THE CHAIRMAN: You are not qualified perhaps to tell us about the movement of United States wheat through the Pacific Coast and the Panama Canal to Europe. You are not qualified perhaps to tell us about the volume?

A. I cannot express any views with respect to the movement of grain from North Dakota or Montana to Seattle or Portland for export. My thought would be that the movement would not be considerable. When you get into extreme Western Montana and into Idaho and Washington, they produce a soft wheat. Now, I do not really know; I could find out, but I really do not know if there is a heavy movement of winter wheat.

Q. Tell me this, though, Mr. Jefferson, do you know this; would the Panama Canal not have some effect on the freight rates on the Great Lakes shipping rates? Do you remember that? Did the opening of the Panama Canal not have some effect on the shipping rates on the lakes. Well, of course, that is not within your province.

A. Now, I cannot express any views on that.

Q. I think they did. I think that is my recollection. That was the effect of the Panama Canal, that it lowered the shipping rates on the Great Lakes.

A. On Canadian wheat?

Q. Well, I think so. Anyhow, it is not within the purview of your experience.

A. I would not think so, myself. It might have some effect on the ocean rates across the Atlantic as





compared with the ocean rates from Vancouver to the United Kingdom, but I would not have thought it would have affected the rates on the Great Lakes or the St. Lawrence.

Q. You would not?

A. No, sir.

MR. CARSON: Now, you dealt with Page 93 of the Appendix?

A. Yes, sir.

Q. What about Page 94 of the Appendix?

A. Well, the fact that Duluth located at the tip of Lake Superior is West of Fort William, should tend to give the American farmer some advantage over his Canadian neighbour in shipping his grain to the Great Lakes on account of the shorter rail haul.

Now, Page 94 of the Appendix takes this factor into consideration as we have made a comparison of the rates on wheat by geographical or longitudinal location of the shipping points from Western Canada to Fort William as compared with Western United States to Duluth.

Now, while I will follow this chart in the Exhibit, I would like you to look at the map itself because we are comparing Winnipeg first with Powell, North Dakota, a point immediately south without regard to distance. Now, from Winnipeg to Fort William the rate is 14 cents for 420 miles, while from Powell, North Dakota to Duluth the rate is  $29\frac{1}{2}$  cents for a distance of 302 miles. The rate to Fort William is  $15\frac{1}{2}$  cents or  $52\frac{1}{2}$  per cent lower than to Duluth while the distance to Fort William is 118 miles or 39.1 per cent greater than to Duluth.



COMMISSIONER INNIS: Do you know what the price of wheat was at that date at Duluth and at Fort William -- October 1, 1949, that is the date of your map?

A. Well, I have an Exhibit that we are filing for the 1947-1948 crop year at Page 100 of the Appendix. The price of wheat at Fort William was \$1.75 per bushel but that price was not a final price as it is part of the five-year pool period, and includes what are called "dissipation certificates", that is, if the returns are more than \$1.75 a bushel, then the farmer gets an added payment. He may get one, two, or three additional payments.

(Page 15200 follows)



Q. You don't know about the price at Duluth?

A. At page 100 we also show that the price at Minneapolis, which would be the price at Duluth as I understand the situation, is \$2.37 per bushel.

Q. \$2.37?

A. Yes, sir.

MR. FRAWLEY: , We will be able to get that information as to the price on the 1st of October, 1949. The Searle Grain Company publishes it, and we will try to bring it before you.

THE WITNESS: It would be over \$2 a bushel.

MR. FRAWLEY: Can you tell Dr. Innis just what the price was on the 1st of October?

THE WITNESS: I don't know, but I would say it would be over \$2 a bushel.

MR. MacPHERSON: American dollars.

MR. CARSON: Q. Mr. MacPherson has interjected that the price would be in American dollars?

A. Which price?

Q. The price at Duluth?

A. Oh, yes.

MR. EVANS: Q. You do not take into account the difference between American and Canadian dollars in these freight rate comparisons, do you?

A. No, sir.

COMMISSIONER ANGUS: Q. Are the American rates that are shown on page 94 export rates or do they apply to domestic as well?

A. The rates shown on the map at page 94 are export rates to the same extent as the rates to Fort William may be termed export rates, that is, the rates to Duluth apply on shipments of wheat to Duluth whether it is re-forwarded from Duluth by water down the Great Lakes or by

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rail to points in the eastern United States or the Atlantic seaboard for export, just the same as the rates to Fort William apply on shipments delivered to boats at Fort William or moved east by rail for domestic consumption or for export.

COMMISSIONER INNIS: Q. Would it not be a fairer comparison to use Canadian domestic rates in comparing it with the American rates than to use export rates?

A. No, sir. The rates to Duluth or Fort William which I have given you are both domestic or export rates so far as movements of wheat to Duluth or Fort William for local delivery or for points beyond are concerned.

Q. But your earlier table shows domestic rates higher?

A. That is only for local movements in the prairie provinces where they pay commodity mileage rates. For example, if you have a movement of grain from Saskatoon to Regina that is where the local mileage rate would apply.

Q. How would that compare with the American domestic rates?

A. I don't know. I have not made a comparison, but I dare say that the rates for local movements of grain within North Dakota and Montana are on a higher level than even the rates to Duluth.

Q. But you don't know that?

A. I don't know that. Our rates are; theirs may be.

Q. It would be very interesting to know whether they make any sharp division?

A. For their local movements?

Q. Yes.

A. It would be fair to compare their local movements



of grain with our local movements on the prairies, but I have made the proper comparisons of Duluth with Fort William.

COMMISSIONER ANGUS: Q. , There is perhaps another point there. Earlier in the evidence when the question was whether shipments to Vancouver for local consumption should have the same rate as shipments for export a comparison was then made between Vancouver and Fort William, and it was said at Fort William they get the advantage of these rates even if it is for local consumption, and I think the answer was because local consumption at Fort William is less important?

A. It does not amount to much.

Q. Relatively. So that what were essentially export rates were extended to use for local consumption, and if that explanation is something that I have understood properly the Canadian rates would be primarily export rates that happened to be used for local purposes while the American rates would be internal rates that are also used for export, and the American policy is to facilitate the export of their wheat surplus by other means than low railway rates.

A. Are you speaking about American rates to Seattle?

Q. No, to Duluth.

A. There is no difference in the application of the rates to Fort William and the rates to Duluth, no difference at all. They both apply for domestic or furtherance movements. When you speak of the rates from Alberta to the Pacific coast then you open up a larger subject. I might just explain it to you in this way, that the railways have rates on export grain from Alberta to Vancouver made in relation to the Crows Nest rates to Fort William



which I explained yesterday. Now, we have these commodity mileage rates on grain in western Canada in the prairie provinces and British Columbia for domestic movement which were on two scales. We had what we called the prairie scale and the Pacific scale. The rates between the prairies and the coast used to be on the Pacific scale, but with the removal of the mountain differential last July we have the prairie scale of rates for local movements throughout the prairie provinces and British Columbia.

You cannot charge -- at least I do not think you can charge a lower rate for domestic movements of grain to Vancouver than in British Columbia or to British Columbia than you apply within the prairies. The only difference is that on the prairies your 'Crows Nest rate to Fort William operates as a maximum to directly intermediate points. The subject we are discussing is one that has been before the Board of Transport Commissioners on many occasions, and we have what we might say is an intermediate tariff to the coast on feed grains for feeding livestock, poultry and so on, and I can give you the figures. The export rate from Calgary to Vancouver is 20 cents. The domestic rate is, I think,  $36\frac{1}{2}$  cents on the prairie basis and the intermediate rate on the feed grain is 30 cents.

Q. I did not mean to raise the question of the merits of the rate to Vancouver for local consumption but merely to say in connection with the discussion of that that it had been my understanding that these rates to Fort William had been described as primarily export rates?

A. That is right.

Q. To encourage export, and they simply happened





to be used as local rates as well?

A. I would rather use the term "furtherance" than "export" because they apply to Fort William on shipments going to Toronto, Montreal, England, Italy or anywhere.

Q. My suggestion was that if they were primarily rates to encourage export and the United States encouraged export by other means in the case of wheat, not by special freight rates, that a comparison between the two levels of rates might be a little misleading?

A. Well, I do not see how it would be misleading. The rates which I have given you are the rates which apply from North Dakota and Montana shipping points to Duluth for furtherance to eastern United States points or to foreign countries. It makes no difference.

MR. CARSON: Q. You were dealing with page 94 of the Appendix, Mr. Jefferson, and you had drawn attention to the one comparison between Winnipeg and Fort William and Powell, North Dakota, and Duluth. Are there any others you want to mention?

A I was going to mention two more comparisons. First from Regina to Fort William the rate is 20 cents for 776 miles while from Culbertson, Montana, to Duluth the rate is 48 cents for 675 miles. The rate to Fort William is 28 cents or 58.3 per cent lower than to Duluth while the distance to Fort William is 101 miles or 15 per cent greater than to Duluth. One more example; from Calgary to Fort William the rate is 26 cents for 1,242 miles while from Belton, Montana, to Duluth the rate is 74½ cents for 1,165 miles. The rate to Fort William is 48½ cents or 65.1 per cent lower than to Duluth while the distance to Fort William is 77 miles or 6.6 per cent greater than to Duluth.



Q. Now, what about the next page in the Appendix, page 95, which I think is referred to on page 167 of the Canadian Pacific submission. I think pages 95 and 96 go together, Mr. Jefferson?

A. Yes, sir. Pages 95 and 96 of the Appendix show a statement of the changes in rates on wheat in car-loads from points in western United States to Seattle, Washington, for export, and from points in western Canada to Vancouver for export from January 1, 1920 to October 1, 1949.

THE CHAIRMAN: Q. Before we enter into this would you clear up one point? According to the heading you have given you take points in the western United States to Seattle for export?

A. Yes, sir.

Q. Are there two rates over that territory, one for local deliveries and one for exports?

A. I cannot answer that statement positively.

Q. It arises naturally since you underline that these are export rates.

A. My understanding is that the rates to Seattle are the same whether for domestic consumption or for export. On pages 95 and 96 we have compared the rates to Vancouver with rates to Seattle for the same or approximately the same distances. We compare Calgary, Alberta, 642 miles to Vancouver with Kalispell, Montana, 627 miles to Seattle. I will stay with main line points. Medicine Hat, Alberta, 818 miles to Vancouver, would be compared with Helena, Montana, to Seattle, 771 miles. Moose Jaw, 1,067 miles to Vancouver would be compared with Glasgow, Montana, to Seattle, 1,014 miles.

In each case the comparison to Seattle is for a



lesser distance than to Vancouver. At the lower part of page 96 this statement shows that from 1920 to October, 1949, the rate from Kalispell, Montana, to Seattle had been increased 24 cents or 77.4 per cent, while from Calgary to Vancouver the rate had been reduced  $4\frac{1}{2}$  cents or 18 per cent. From Helena, Montana, to Seattle the rate had been increased  $26\frac{1}{2}$  cents or 76.8 per cent, while from Medicine Hat to Vancouver the rate had been reduced 6 cents or 21 per cent. From Glasgow, Montana, to Seattle the rate had been increased 30 cents or 75 per cent while from Moose Jaw to Vancouver the rate had been reduced  $9\frac{1}{2}$  cents or 28 per cent.

MR. CARSON: Q. Now then, what about the maps at pages 97 and 98 of the Appendix? I think they are referred to at page 167 of Part 1 of the Canadian Pacific submission?

A. The map at page 97 of the appendix shows a comparison of the rates on wheat for export for hauls of similar distances from western Canada to Vancouver with the rates from western United States points to Seattle. From Calgary to Vancouver, a distance of 642 miles, the rate is 20 cents, and from Kalispell, Montana, to Seattle, a distance of 627 miles, the rate is 55 cents. The rate to Seattle is 35 cents or 175 per cent higher than to Vancouver, and expressed in another way, the rate to Vancouver is 35 cents or 63.6 per cent lower than to Seattle. From Medicine Hat, Alberta, to Vancouver, a distance of 818 miles, the rate is 23 cents while from Joplin, Montana, to Seattle, for 810 miles, the rate is 61 cents. The rate to Seattle is 38 cents or 165.2 per cent higher than to Vancouver while the rate to Vancouver is 38 cents or 62.3 per cent lower than to Seattle.

(Page 15210 follows)





One further example: from Moose Jaw to Vancouver, for a distance of 1067 miles, the rate is 25 cents. From Big Horn, Montana, to Seattle, for a distance of 1065 miles, the rate is 70 cents. The rate to Seattle is 45 cents, or 180 per cent higher than to Vancouver; and the rate to Vancouver is 45 cents, or 64.3 per cent lower than to Seattle.

Q. What about the table at page 98?

A. The table on page 98 of the appendix shows:

"Comparison of Rates on Wheat for Export

by Geographical (Longitudinal) Location  
of Shipping Points. Western Canada to  
Vancouver, B.C., versus Western United States  
to Seattle, Wash."

Q. I think that table is made up on the same basis as the longitudinal table on page 94.

A. That is right, yes, sir.

Q. And unless there is something special about it, I think those figures speak for themselves, and I do not think you need to take up any particular example.

A. Yes, sir.

Q. Have you a statement showing a comparison of the rates on grain, with the per car and per car mile revenues from points in Western Canada to Fort William compared with Western United States points to Duluth?

A. Yes, sir.

MR. CARSON: This statement will be Exhibit 163.



EXHIPIT No. 163: Filed by : Canadian Pacific  
Mr. Carson: Railway Company -  
: Statement showing  
: Rates on Grain with  
: Per Car and Per Car  
: Mile Revenues from  
: points in Western  
: Canada to Fort  
: William compared with  
: Western United States  
: to Duluth.

MR. FRAWLEY: I think, Mr. Chairman, for the record, that we should say we think this is getting very close to transgressing the ruling of the Commission, that they would not examine the compensatory character of the rates, so there will be no misunderstanding later about our position.

THE CHAIRMAN: You say the competitive character of the rates?

MR. FRAWLEY: No. The compensatory character of the rates. The Commission has ruled that out, and I think that this exhibit which attempts to show the per car and per car mile revenue in Western Canada on this grain is -- without my examining it closely; this is the first time I have seen it -- it would seem to be coming close to making out a case that they are not compensatory.

THE CHAIRMAN: We shall have to examine it.

MR. CARSON: We are not introducing a cost study at all. This is a comparison of revenues.

THE CHAIRMAN: Have we got it before us?

MR. CARSON: It is Exhibit 163 and it is entitled:

"Statement showing Rates on Grain with  
Per Car and Per Car Mile Revenues from points  
in Western Canada to Fort William compared with  
Western United States to Duluth."

MR. CARSON: Q. Would you make your

1. The first part of the report  
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comparison by reference to this exhibit?

A. We will use the same three examples that I have been using to Fort William, as compared to Duluth.

From Winnipeg to Fort William, for a distance of 420 miles, the rate is 14 cents, and the revenue per car, on the basis of 98,832 pounds is \$138.36, producing a revenue per car mile of 32.9 cents.

Q. Yes?

A. While from York, North Dakota, to Duluth, for a distance of 420 miles, the rate is 35 cents per 100 pounds; the revenue per car on a basis of 101,000 pounds is \$353.50; and the revenue per car mile is 84.2 cents.

Q. Yes?

A. The next comparison, from Regina to Fort William, for 776 miles, the rate is 20 cents; the revenue per car, \$197.66; and the revenue per car mile is 25.5 cents.

From Whately, Montana, to Duluth, for a distance of 772 miles, the rate is 55 cents; the revenue per car is \$555.50; and the revenue per car mile is 72 cents.

From Calgary to Fort William, a distance of 1242 miles, the rate is 26 cents; the revenue per car is \$256.96; and the revenue per car mile is 20.7 cents.

While from Eureka, Montana, to Duluth, for a distance of 1240 miles, the rate is 79 cents; the revenue per car is \$797.90; and the revenue per car mile is 64.3 cents.

Q. Yes?

MR. FRAWLEY: Q. But Alberta grain does not move to the lakehead. It moves to the Pacific coast terminals?

A. Not all of it. There is a lot of it which





moves to Fort William from Alberta.

Q. When they are crowded at the terminals?

A. No, sir. Normally a lot of the grain in Alberta moves to Fort William and Vancouver.

MR. CARSON: Mr. Frawley will be glad to know that.

MR. FRAWLEY: There is something on file which shows how much of it --

COMMISSIONER INNIS: Q. Would it not be possible to get figures to show the number of cars which move to these respective places? It makes a little difference how much volume is involved.

A. We could get it for you from points on our own line.

Q. But not on the American lines?

A. We might get it if I asked them for it. But there is a heavy movement of grain from Minnesota, North Dakota, and Montana to Duluth.

Q. Compared with York to Winnipeg, what would be, roughly, the per cent?

A. Winnipeg, which is a shipping point of grain, would be small; but it is all the points in the area. I mean, there are hundreds of points in the tariff; but in my rates to Fort William I selected these points for comparative purposes so that they would be readily recognized in discussion. If I picked some unknown country point, we would not just realize where it was.

Q. I think it puts too much emphasis on the mileage and not enough on the volume which moves.

A. As far as the distance is concerned, the rates are the same on any point in that distance, no matter whether it is a city or a country point.

THE CHAIRMAN: Q. Does wheat from Montana



for instance for the mills in Minneapolis and St. Paul move via Duluth?

A. For the mills -- no, sir. But the rates from shipping points to Minneapolis are the same as to Duluth; but the milling companies at Minneapolis would not draw their wheat --

Q. Would not what?

A. Would not draw their wheat from Duluth. They usually draw it right from the country points.

Q. That is what I thought.

COMMISSIONER INNIS: Q. Do I understand you to say that the rate, to all intents and purposes, is wiped out between Minneapolis and Duluth?

A. Wiped out?

Q. Yes.

A. If you look at one of the maps in this appendix, let us say page 93, it does not show Minneapolis. I thought that it might. But if grain is moving from these points to Duluth, the points shown on the map for the storage, for the elevators and reshipment by boat down the lakes to Buffalo, the movement is to Duluth.

But if you are having a movement of grain, and you have, from the same points in North Dakota or Montana to the several milling companies at Minneapolis or St. Paul, I do not think the grain would go into Duluth and out again. I think it would go direct to Minneapolis. But the rates to Minneapolis are the same as to Duluth.

Q. They are the same as to Duluth?

A. Yes, sir. This product is reshipped by the mills at Minneapolis to United States destinations.

MR. EVANS: That is a milling and transit arrangement, much the same as we have in Canada.

The first part of the report is devoted to a description of the general situation of the country. It is found that the country is generally fertile and well watered, and that the population is increasing rapidly.

The second part of the report is devoted to a description of the principal occupations of the people. It is found that the principal occupations are agriculture, stock raising, and commerce. The principal crops are wheat, corn, and cotton.

The third part of the report is devoted to a description of the principal cities and towns of the country. It is found that the principal cities are New York, Philadelphia, and Baltimore. The principal towns are Albany, Syracuse, and Rochester.

The fourth part of the report is devoted to a description of the principal industries of the country. It is found that the principal industries are agriculture, stock raising, and commerce. The principal products are wheat, corn, and cotton.

The fifth part of the report is devoted to a description of the principal resources of the country. It is found that the principal resources are land, water, and minerals. The principal minerals are coal, iron, and copper.

THE CHAIRMAN: What is that?

MR. EVANS: Q. It is a milling and transit arrangement?

A. Not at Minneapolis. The rates break there just the same as at Fort William. They pay the rate into Minneapolis, and the rate out, just as they pay the rate into Fort William, and the rate out.

THE CHAIRMAN: We shall take a few minutes recess.

---Recess.

---Upon resuming:

MR. CARSON: Q. Mr. Jefferson, I think you were dealing with Exhibit 163, and you had referred to three illustrations by way of comparison. Is there anything more on that statement that you would care to point to?

A. I was going to mention that the car mile earnings shown in the Exhibit 163 to Fort William should be compared with the car mile earnings shown in the middle of the statement for all traffic on the Canadian Pacific in the Prairie and Pacific regions, as 34 cents, while the revenue per car mile to Duluth could be compared with the revenue per car mile earnings on all traffic on the Great Northern, of 39.2 cents, and on the Northern Pacific of 39 cents.

Q. Yes?

A. Now, the exhibit also explains, at the bottom of the page, the source for the average weights per car used.

Q. That speaks for itself, I would assume.

A. Yes, sir.

Q. Have you a statement showing a somewhat similar comparison from points in Western Canada to Vancouver, compared with Western United States to Seattle?





A. Yes, sir.

Q. MR. CARSON: This statement will be Exhibit 164.

EXHIBIT No. 164: Filed by : Canadian Pacific  
Mr. Carson: Railway - Statement  
: showing Rates on  
: Grain with Per Car  
: and Per Car Mile  
: Revenue from points  
: in Western Canada to  
: Vancouver, B.C.,  
: compared with Western  
: United States to  
: Seattle.

COMMISSIONER INNIS: These two sheets are attached together.

MR. CARSON: Yes. But I thought it might save confusion if we gave each a separate number.

THE CHAIRMAN: Exhibit 164 will be the second of these sheets?

MR. CARSON: Yes. Thank you, my lord.

THE WITNESS: Now, this Exhibit 164 shows:

"Rates on Grain with Per Car and Per Car Mile Revenue from points in Western Canada to Vancouver, B.C., compared with Western United States to Seattle."

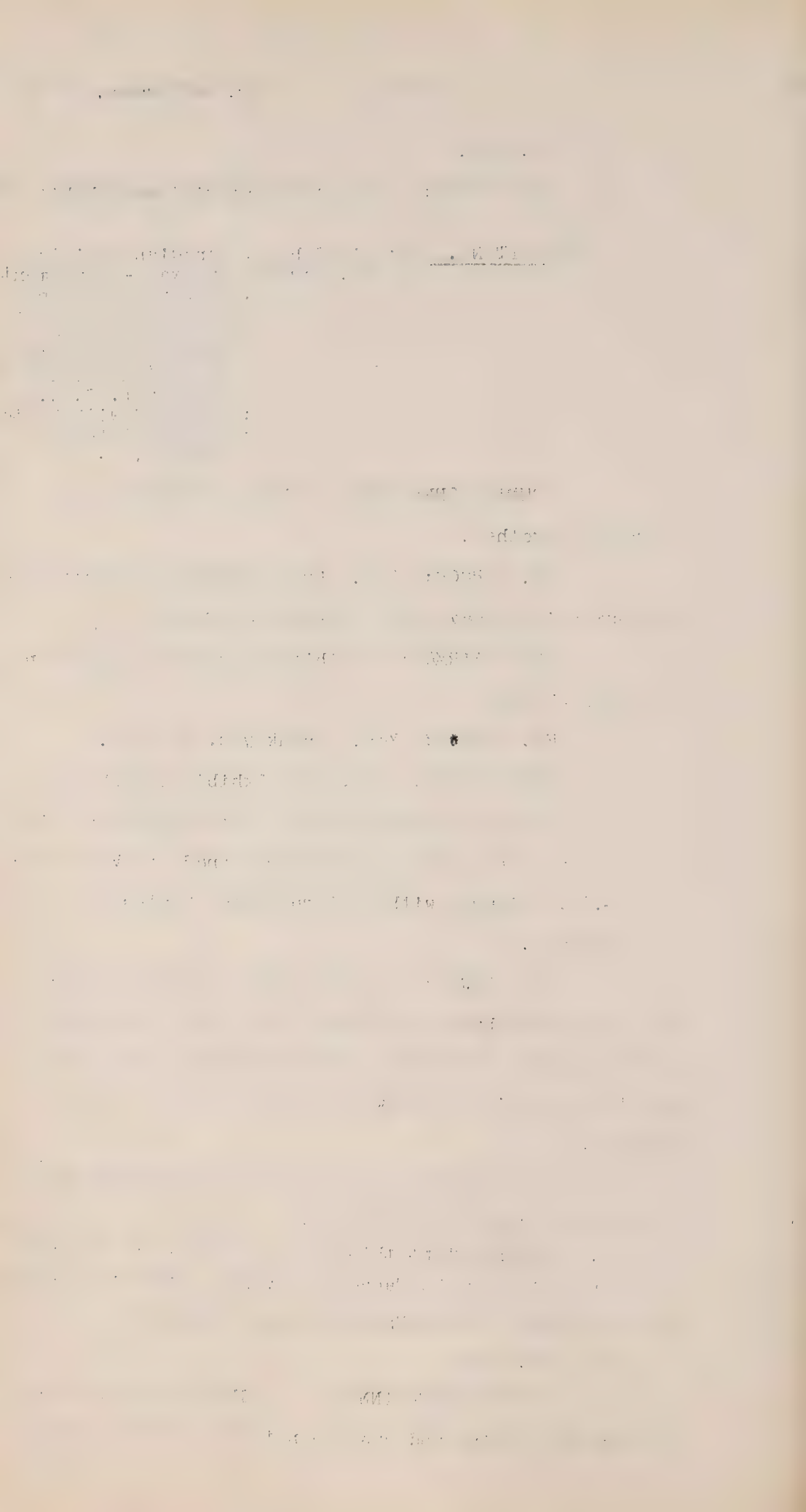
MR. CARSON: Q. Since this exhibit is made up on the same basis as Exhibit 163, would you agree that it speaks for itself and that perhaps you need not take the time to draw attention to any of the details?

A. I would think so, unless the Commission want to ask some questions about it.

Q. The important thing is to compare the revenue per car basis for the Canadian movement with the revenue per car basis for the United States movement?

A. Yes, sir.

COMMISSIONER INNIS: Q. There would be grain moving from Regina and Saskatoon to the Pacific coast?



A. There is very little movement of grain from Saskatchewan to the Pacific coast for export.

The only movement from Saskatchewan to Vancouver for export would be flour for export, where the grain originates in Saskatchewan and is milled in transit at points such as Saskatoon and Moose Jaw, and the product is reshipped to the Pacific coast for export. There is a movement of that traffic.

THE CHAIRMAN: What was the case before this last war?

A. On grain out of --

Q. Yes.

A. No, sir. I have over a period of years the movement of grain from Saskatchewan and Alberta to Vancouver for export, so far as the Canadian Pacific Railway is concerned, and I do not think, of the total movement to the Pacific coast, that the Saskatchewan movement ever reached 5 per cent. It was very small.

Q. I see.

COMMISSIONER INNIS: Q. Would you say that the same held true for these points in the United States, such as Culbertson? There would be a very small amount moving to the Pacific coast?

A. I would not think there would be a heavy movement of grain from North Dakota points to Seattle for export, no, sir.

MR. CARSON: Q. Then I think you have a statement showing:

"Comparison of Canadian Pacific Railway (Prairie and Pacific Regions); Great Northern Railway and Northern Pacific Railway Revenue per Ton Mile on Grain and Grain Products with All Traffic, Year 1948."



A. Yes, sir.

MR. CARSON: That will be Exhibit No. 165.

EXHIBIT No. 165: Filed by : Statement showing  
Mr. Carson: Comparison of Canadian  
: Pacific Railway  
: (Prairie and Pacific  
: (Regions); Great  
: Northern Railway and  
: Northern Pacific Rail-  
: way Revenue per Ton  
: Mile on Grain and Grain  
: Products with All Traffic  
: Year 1948.

MR. CARSON: Q. Would you tell the Commission  
what that exhibit shows?

A. Exhibit 165 is:

"Statement showing Comparison of Canadian  
Pacific Railway (Prairie and Pacific Regions);  
Great Northern Railway and Northern Pacific Railway  
Revenue per Ton Mile on Grain and Grain Products  
with All Traffic, Year 1948."

Q. Yes; what is the significance of these figures?

A. First I would like to point out the revenue  
per ton mile on grain and grain products in comparison  
with all traffic in the Prairie and Pacific regions of  
the Canadian Pacific Railway, and on the lines of the  
Great Northern and Northern Pacific, for the year 1948.

(Page 15230 follows)





It will be seen from this exhibit that in the Prairie and Pacific regions of the Canadian Pacific Railway the revenue per ton mile on grain and grain products was 0.55¢ and for all traffic 1.03¢.

COMMISSIONER ANGUS: Do these include grain moving at rates appropriate to domestic consumption?

A. Include all movement of grain and grain products, in Western Canada, yes, sir. I will have something further to say about that a little later. It is very striking to observe that on the lines of the Great Northern Railway the revenue per ton mile on grain and grain products was 1.33¢ and for all traffic 1.14¢. On the lines of the Northern Pacific Railway the revenue per ton mile on grain and grain products was also 1.33¢, while on all traffic it was 1.25¢. The statement also shows that the revenue per ton mile for the Canadian Pacific on all traffic except grain and grain products was 1.31¢. This may be contrasted with the Great Northern Railway whose revenue per ton mile on grain and grain products was 1.33¢, while on all traffic except grain and grain products it was 1.12¢. On the lines of the Northern Pacific Railway the revenue per ton mile on grain and grain products was also 1.33¢, and on all traffic except grain and grain products it was 1.23¢.

Q. We are still on the subject that is dealt with on page 167 of Part I of our submission, and I think you want to explain the statements that are shown on pages 99-100 of the Appendix, also the graphs at pages 101-102 of the Appendix dealing with the average cash prices of wheat through Fort William and Minneapolis?



A. Well, first of all, I would like to file a substituted page 99 of the Appendix to Part I.

Q. Which I think is going to give the same information as on page 99 but in different form.

A. The very same information but in different form, as we thought the way it had now been made up would be more clear to every one.

. . .EXHIBIT 166...filed by Mr. Carson  
Substituted Page 99 of Appendix  
to Part I of Canadian Pacific  
Submission.

Q. Are you going to direct your evidence to Exhibit 166, which is the substituted page 99?

A. Yes, sir. Now, Exhibit 166, substituted page 99 of the Appendix, shows the sources for the yearly average cash prices of wheat at Fort William and Minneapolis which will be referred to when I explain pages 101 - 102 of the Appendix. Now, page 100 of the Appendix shows the prices of wheat, the yearly average cash prices of wheat at Fort William and Minneapolis from 1897 to 1948.

Now, the grades of grain as shown in Exhibit 166 are the same, that is, the high grade. Then we have shown the crop years and the sources from which the prices have been obtained, and the basis for the prices. Now page 100 shows that when the present rates on grain were established in 1899 to Fort William, the price of wheat at Fort William was 70¢ per bushel. In 1948 the Canadian Wheat Board payment to the farmer, as announced up to February 24, 1949, was \$1.75 per bushel, an increase of 150% above the



1899 price. Yet the freight rates remain at the 1899 level. As I mentioned earlier this morning, the price of \$1.75 per bushel paid up to February 24, 1949, does not represent the final payment.

COMMISSIONER ANGUS: Are both columns in Canadian dollars?

A. No, sir. The Fort William column would be in Canadian dollars, but the Minneapolis column would be in U.S. dollars.

COMMISSIONER INNIS: Is there any way of indicating when the United States ceases to be influenced greatly by the export price? One assumes that the export prices get out of line and the fact that they do get out of line is as a result of change in domestic policy which presumably means a declining influence of the export market. Now, you could not give any rough estimate as to when that takes place?

A. I could not answer that question, no sir.

Q. One could get it presumably by simply looking at the exports of the United States?

A. Yes, sir, but I have not done that. In comparison with what I have just stated, it will be found that the price of wheat in Minneapolis in 1899-1900 was 69¢ per bushel compared with the price in 1947 - 1948 of \$2.37 per bushel, or an increase of 234%. Taking Whately, Montana, as a representative shipping point, the freight rate to Minneapolis or Duluth has risen by 37½%.

Now, pages 101 - 102 of the Appendix, they are the graphs indicating the trend in prices. Page 101 is a graph of the trend in the price of wheat at Fort William, while page 102 is the graph of the

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prices at Minneapolis. Now I have a further exhibit to offer which superimposes the graph on page 102 on to page 101 of the Appendix.

Q. And this will be Exhibit 167.

. . .EXHIBIT 167...filed by Mr. Carson  
Superimposed graphs on pages  
101 and 102 of Appendix to Part I  
of Canadian Pacific Submission.

THE WITNESS: Now, it will be seen from  
that  
Exhibit 167/there is a similarity of the two graphs,  
and the similarity is most striking, except that in  
1918 the price at Minneapolis was higher than at  
Fort William. Furthermore, the price at Minneapolis  
has been progressively higher than at Fort William  
since the crop year 1944 - 1945. This no doubt has  
been due to government controlled prices in Canada.

Q. I think the chart shows that the black  
line represents prices at Fort William and the red  
line represents prices at Minneapolis?

A. That is right, yes sir.

Q. Now, have you any further comment to make  
on this, Mr. Jefferson?

A. In view of the similarity in the fluctuations  
in prices as between Canada and the United States,  
it is difficult to understand how higher freight  
rates on grain would be ruinous to the Canadian  
farmer. In view of all that has been presented, it  
is most difficult to understand what reasonable  
argument could be advanced of inability to pay.

Q. Now, Mr. Jefferson, by reference to pages  
168 - 169 of Part I of the Canadian Pacific submission- -



COMMISSIONER INNIS: Do you get an impression (if I may come back for a moment to your earlier statement, that is, in Exhibit 165) that while they may pay less on grain products, they do pay substantially more on traffic other than grain products, so it is not a matter of ability to pay, is it?

A. What did you say about the other traffic?

Q. On Exhibit 165 you have brought out rather sharply the difference between the returns on grain and grain products and all traffic except grain and grain products which is 1.31 in the case of the Canadian Pacific?

A. Yes, sir.

Q. Whereas in the case of the Great Northern it has gone down to 1.12?

A. Yes, sir.

Q. I assume that this means that the payment of the Prairie region on wheat is being made not directly by through wheat but by other traffic?

A. Well, the exhibit shows that in the United States on the lines of the Great Northern and Northern Pacific the revenue per ton mile on grain and grain products is much higher than in Western Canada. It also shows, as you say, that on all traffic except grain and grain products, the ton mile revenue on the lines of the Great Northern and Northern Pacific is slightly less than on the Canadian Pacific in the Prairie Provinces.



Q. Well, I was just wondering as to your last statement regarding the inability of the wheat producers to pay the rates. It is not a matter of inability; they do pay except they pay in other forms.

A. Well, you mean by that that the rates on the other traffic would be lower if the rates on grain and grain traffic were higher?

Q. Well, I assume that is what you bring out in this.

A. Yes, that is true. If the railways were obtaining all of the revenue they needed to meet all their requirements and the grain rates were increased, the rates on other traffic would naturally be reduced, but when the railways are not getting the revenue they need, the increase in the grain rates should be made so that the other shippers would not have to pay the whole burden.

Q. Well, the question is whether they do pay the whole burden. That rather worried me about the use of your word "inability". Now, presumably Parliament in the Crow's Nest Pass rates assumes that it is best to have the Canadian farmer in possession of substantial cash as a result of his wheat sales and low freight rates and to have him pay that increase in higher freight rates on products that he buys?

A. But, of course, the farmer does not buy everything that moves in Western Canada,

Q. No, that was perhaps too general a term.

A. Well, the point I want to make is this. We know the railways are not getting all the revenue they need. Now, every time we increase the freight rates, we have to increase them more on the other traffic because the grain rates remain stationary. Now, if the grain rates were increased the shippers and





receivers of other traffic, not only in the West but throughout Canada, would not have to pay as high an increase as they would if the grain rates were not increased.

Q. But I assume that Parliament has decided and that presumably Parliament is supported particularly by public opinion in the West that this is the best way of meeting the situation. Now, the question is, what are the arguments against it? You can get your traffic or your revenue more easily, is that your argument?

A. You mean increasing the other traffic more and leaving the grain rates as they are?

Q. Yes.

A. Well, there are objections to that. First, for the reason that I have given you that other shippers are required to pay a heavier burden than they should and another reason is that you get rates too high that for competitive reasons it affects the movement of other traffic.

Q. Let us confine it to the Prairie Region?

A. Yes.

Q. Now, a certain amount of money goes into the Prairie Region in terms of money received from the sale of wheat?

A. Yes, sir.

Q. That money will be paid out to the railways either for freight on goods which are bought with that or on the amount of revenue which it obtains directly from the wheat?

A. You mean if they get a lower rate on the wheat?

MR. CARSON: They would pay more on the boots and shoes. I think that is Dr. Innis' point.



A. Well, I don't think they would buy any more boots and shoes.

COMMISSIONER INNIS: That is to say, it does not make any difference really?

A. Well, I think it does because the Prairie Provinces do not make up all the deficiency.

Q. That is quite true.

A. I do not see how you could separate the Prairie Provinces. Here is one class of traffic on which you do not increase the rate and on other classes of traffic throughout the country the rates are increased.

Q. Well, I am confining the argument to the Prairie Regions for the sake of simplicity and I am wondering whether the argument might not be put forward that this does, whatever else you may say, put some cash in the hands of the farmer who decides what he wants to buy?

A. Well, I would like to say this, that if the rates on wheat were <sup>not</sup> increased in the West, the other traffic should be increased more in the West than in other sections of the country because they are not paying their full share of the increase.

Q. Yes, I see your point; I understand that, but I am not sure. We faced the argument in a larger sense, that is to say, is it better for the economy in the West and consequently for Canada as a whole that there should be perhaps this over stimulation to wheat production and I am not sure that that wider argument has been given much attention; we are more concerned with the detail.

A. But I am not aware of any reason why the shippers of grain and grain products in the Prairie Provinces cannot



pay more in transportation charges today than they paid in 1898. In fact, the rates today are three cents below what they were in 1898.

Q. But my argument is that they do pay more but they pay it on other things as your Table brings out; they pay more on traffic other than grain?

A. That is true; so does the East pay more.

MR. CARSON: You are saying everybody pays more on boots and shoes because of that?

A. Yes, if you take the ton mile earnings in Eastern Canada on all traffic or on all traffic except grain and grain products, it would be more than shown on this Exhibit for the Prairie Provinces.

COMMISSIONER INNIS: It would be interesting to get a comparison as to the situation in the Eastern regions. I suppose you have those figures?

A. Oh, yes, I can prepare that for you. Of course, it would be much higher than this.

MR. CARSON: Would you get that for Dr. Innis then some time before we conclude?

A. Yes.

COMMISSIONER ANGUS: Is the case of the Canadian Pacific primarily that the legislation we are discussing was bad when it was enacted or that it has become unsuitable because of the movement of prices that accompany the products?

MR. EVANS: I think primarily it gets down to this, that the development from that agreement has been so much broader than the agreement envisaged that you have now imposed burdens on other people and on the railways to a far greater degree than was ever intended should be the case. I don't think anyone could





have foreseen at that stage the development of the railway in the West and the fact that all railways and all points of all railways would permanently be asked to bear the burden of this contract. And then, I don't think anyone could have foreseen or at least I assume they did not that the Board should subsequently effect other rates in accordance with that contract, that is, to have its effect on domestic grain rates, to have its effect on export rates to the Pacific coast and also to have added to the tariff affected by the same agreement other commodities which are so closely related to the original commodities and which have newly developed and are a big factor.

COMMISSIONER ANGUS: By the "original burden" you mean the enactment of 325?

MR. EVANS: 325.5.

COMMISSIONER ANGUS: That is what you mean by the "original burden"?

MR. EVANS: I mean that the agreement --

COMMISSIONER ANGUS: The agreement?

MR. EVANS: Yes.

COMMISSIONER ANGUS: That is going back to something else again. After all, as I understand it, it was an agreement to perform services in perpetuity at a fixed price in dollars which one may say now that we know how the dollar varies -- it is no longer a gold dollar -- becomes a very improvident sort of contract to make?

MR. EVANS: It is not on the basis of improvidence or the changing of the value of the dollar and we have not made any particular point of the changing value of the dollar but we have pointed out that that contract no longer is merely a burden on the Canadian



Pacific; it is a burden on all railways and there comes a time when you cannot impose a permanent burden on shareholders because you cannot force a shareholder to bear a burden. He just says " I won't invest my money in an undertaking of that kind".

Now, the question is, are you going to recognize now that that is true. Now, the distinction I say between the agreement and the statute is this, that Parliament were faced with a decision of the Supreme Court of Canada in which the chaotic result of the application of the agreement in its own terms was apparent. They had this violent discrimination as between points covered by the agreement and points other than those on railways in existence at the time of the agreement and also for points on other railways. Now, they had this chaos, as the Supreme Court described it, and the only remedy was for Parliament to do something about it. Now, it does not seem to me that that action by Parliament at that time was once and for all a solution of this problem. We think that you have new situations arising. Parliament was trying to cure a chaotic condition at that time and they chose a way of doing it. Now, we say that fails and that now we should have some other solution.

THE CHAIRMAN: Just for the purpose of having the records straight, are you sure that was the Supreme Court that said there was a chaotic condition? I understand it was Commissioner Boyce and then the Supreme Court said "We'll, if as Commissioner Boyce says there is this very bad condition Parliament is in session now; perhaps they can do something about it now".

MR. EVANS: Perhaps I was inaccurate in the way I put it.



THE CHAIRMAN: Going back to this original bargain itself whereby these rates were fixed as they were fixed, would you say that it was a hard bargain on the Canadian Pacific Railway?

MR. EVANS: I think it was a hard bargain.

THE CHAIRMAN: I understand that you carried the wheat at less than that rate for a long period of years.

MR. EVANS: I think it was a hard bargain on the Canadian Pacific Railway.

THE CHAIRMAN: Why do you say it was a hard bargain when you got along by charging less than you were authorized to charge?

MR. EVANS: Well, I think that the shareholders of the Canadian Pacific Railway actually had to forego in those days some measure of earnings and I would suggest out of all proportion to the \$3,400,000 that was paid to the Company as a subsidy.

THE CHAIRMAN: But I am talking about earnings -- the rates which you in fact did charge for something like 12 or 13 years, and which must have been a compensatory rate?

MR. EVANS: I have no doubt they were compensatory.

THE CHAIRMAN: And it was a compensatory rate below the level of the Crow's Nest authorized rate?

MR. EVANS: You are speaking now of the Manitoba Agreement?

THE CHAIRMAN: Yes.

MR. EVANS: Of course, the Manitoba Agreement was really a partial outgrowth of the Crow's Nest Pass Agreement.





THE CHAIRMAN: I know it was, and then for competitive reasons you had to change the rates?

MR. EVANS: Yes.

THE CHAIRMAN: But according to the rule of competitive rates which we have always been told is issued by your Company, that competitive rate must have provided a measure of compensation?

MR. EVANS: I think so.

THE CHAIRMAN: During those years. Then, according to your contention then a radically different state of affairs has grown up since 1914?

MR. EVANS: Yes. My point really does not altogether depend upon whether the measure of the rate at that time was compensatory. We say that perhaps without that agreement --

THE CHAIRMAN: As I say it must have been compensatory since you could give a competitive rate lower than authorized?

MR. EVANS: Yes, it must have been. I think that is quite clear but it does not follow that there was not a burden imposed on the Company and its shareholders by reducing those rates at that time and throughout that period.

THE CHAIRMAN: Well, at that time the burden would have been more or less, as my colleague on my right says, an improvident bargain made to last for perpetuity on account of the fluctuation in money value and so on but for those 12 or 13 years it was not a burden?

MR. EVANS: It was a burden but not one that the Company could not bear; in other words, the shareholders said: "We will be content with less by way of earnings."



THE CHAIRMAN: If you had been authorized to charge higher rates by this agreement and did not charge them, you could have still charged a lower rate to meet competition and received compensation out of that?

MR. EVANS: I would think that was extremely difficult.

THE CHAIRMAN: Well, you did it.

MR. EVANS: We did it because when the Manitoba Agreement was made they were looking around presumably for some means by which the Canadian Northern could give Manitoba something for something the Canadian Northern got in the Agreement. They found that and in making that Agreement they forced the Canadian Pacific to take something less. Now, it does not follow that that agreement should have been made, at least not on that basis, if the Crow's Nest level of rates had not previously been adopted by the Crow's Nest Pass Agreement.

THE CHAIRMAN: I am saying that whatever the reason was, you did make an agreement to meet a certain competition, which, according to your definition must have given you a certain measure of compensation, and which, nevertheless, was lower than the authorized Crow's Nest rates?

MR. EVANS: Oh, yes.

THE CHAIRMAN: That went on for a period of time and then I take it from you, you say that things have changed so radically since, say, 1914, and the burden, as you call it, has been extended to such a degree over your line which did not then exist and over other lines which, of course, did not exist that westerly as well as easterly we now have to pay more?



MR. EVANS: I would like to add that the Manitoba agreed rates were apparently thought by the Board to be too low at the time that this matter was being discussed.

THE CHAIRMAN: Well, we are talking of 1917?

MR. EVANS: Yes, and after the war, too, sir, because they said "That agreement is not binding" and the Supreme Court of Canada held that was right.

THE CHAIRMAN: Yes, I know that.

COMMISSIONER ANGUS: My question was really concerned not with the original agreement but with the post war legislation -- post first war, and really it was this; was that at the time when it was passed an unfair settlement or is your contention rather that it is a settlement that should be revised in view of an unexpected inflation in prices because obviously an inflation in prices, if it were big enough, would throw out any fixed price legislation and make it unfair?

MR. EVANS: I would say on both grounds. I think any legislation of that kind was most unwise as a matter of legislation. That would be my position, and too the unwisdom of it is shown by the second point you made in part.

COMMISSIONER INNIS: Mr. Jefferson, would you care to say what you think the rates on wheat should be?

THE WITNESS: Well, I am coming to that later on, but I am not saying what the rates should be but I am saying what they would have been if certain things had happened in a different way. But now, I do not know if we are not going to be permitted to determine whether the rates are compensatory or not whether I would want to say.





Q. You would not make a guess as to what you think .  
would be a reasonable rate?

A. I would not care to at the moment, no sir.

Q. You would think it would be appreciably higher?

A. Quite a bit higher, yes, sir -- substantially  
higher.

Q. In that case, you do not think that would imply  
a disturbance to the economy that would be unreasonable?

A. That it would affect the economy of Western  
Canada?

Q. Yes.

A. I would not think so, no sir.

Q. That you could suddenly reverse policy that  
has been in operation since 1898 without creating any  
disturbing effects?

A. I think the Western shippers could afford to  
pay a higher rate on the wheat to Fort William.

Q. I do not think it is a matter of affording to  
pay it; it is a matter as to whether it is wise to  
suddenly reverse the fashion in which they are paying?

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A. Whether it is wise or not --

MR. CARSON: Q. To suddenly reverse the fashion in which they are paid?

A. Suddenly reverse what?

Q. The fashion or pattern of these rates?

A. There is no other commodity which has rates below 1898, and prices are so much higher than they were in 1898.

COMMISSIONER INNIS: Q. You have not thought of the economy as a whole and as to the repercussions that would follow a sharp increase in grain rates and presumably a decline in other rates?

A. A decline in other rates?

Q. That is the inference that I have made.

A. My own personal view is it would not affect the economy of western Canada if grain rates were substantially increased.

THE CHAIRMAN: Q. Would you go this far? Would you say that there ought always to be a difference between export grain rates and domestic grain rates?

A. Within western Canada?

Q. Well, in Canada, that the rate for carrying grain for domestic purposes should reasonably be higher than the rate for carrying it for export purposes, or putting it the other way around, export wheat should get a preferential rate over domestic shipments in some degree?

A. I would answer that by saying that as Canada is very prominently an exporting country it would not be unreasonable to have a lower rate on export traffic than on domestic movements, but I think there is a misunderstanding about these grain rates to Fort William, because



there is no difference there. Whether they are for domestic or for export movements the Crows Nest Pass rates to Fort William apply whether the grain or the product of the grain is destined to points in eastern Canada or whether it is destined to points in the eastern United States or whether it is to go to the Canadian or United States Atlantic seaboard ports for export.

Q. Where does seventy-five per cent of it go in reality? It goes outside of Canada, does it not?

A. I would say yes, sir.

Q. What percentage of the United States wheat crop goes outside of the United States?

A. It would be a small percentage in comparison with Canada.

Q. The problem is much more of a national one for us than it is for the American people?

A. Yes, sir, it is.

COMMISSIONER ANGUS: Q. If section 325 were repealed and the rates were determined under the procedures of the Board, would you expect export rates for grain to be below the ceiling, to be what have been called market competitive rates fixed by the railways below what they are entitled to charge, or would you expect them to be rates at the ceiling fixed by the Board as just and reasonable?

A. I would expect them to be fixed in the way you express it by the ceiling as just and reasonable rates. I would not think they would be established on a basis of what you call competitive rates because in the way we make competitive rates they are not rates in competition with some other mode of transportation. They would be normal rates.





Q. They might be in competition with some other source of supply?

A. Quite so.

Q. And I think we have been told of rates made to facilitate market competition?

A. Yes, sir.

Q. Outside of Canada?

A. That is right.

Q. I wondered whether or not these rates would come under that heading?

MR. CARSON: Q. I do not know whether you understood Dr. Angus' question. Does this point it up? If you give him what the standard class rate is on grain, what the commodity mileage rate is on grain and what the Crows Nest Pass rate is on grain will that point it up?

A. Yes, sir, I could give him that.

Q. I am not sure whether you heard the question.

A. I don't know what the standard mileage rate is.

Q. I think that will show that even now we are not operating up to the ceiling of the standard class rate.

A. From Winnipeg to Fort William for 420 miles -- I don't know what the 8th class standard mileage rate is because that is the class that grain and grain products take, but the Crows Nest rate is 14 cents and the prairie commodity mileage rate is 30 cents.

MR. EVANS: Q. The class rate would be above that?

A. The class rate would be higher than 30 cents. 58 cents would be the 8th class standard mileage rate. We would not increase the Crows Nest rates to the standard mileage rates, but we would make rates on the grain to Fort William on what we term special commodity rates,



but not necessarily competitive rates.

COMMISSIONER INNIS: Q. You have not easily available statistics on exports of wheat from Canada compared with exports from the United States? I think we can get that ourselves, but I wondered whether you might have it there.

A. I have not it here, no, sir, but I could get it for you.

Q. I presume we can get it from our own officers.

THE CHAIRMAN: We will adjourn now.

At 1.00 p.m. the Commission adjourned to resume at 2.45 p.m.



AFTERNOON SESSION

C. E. JEFFERSON, RECALLED

EXAMINATION BY MR. CARSON (CONT'D)

MR. CARSON: Your lordship asked this morning about the expression "chaos", whether it appeared in the Supreme Court judgment or Mr. Commissioner Boyce's judgment. Your lordship will notice that at page 156, where we quote a passage from Mr. Justice Anglin's judgment, it does appear in the first sentence of that passage in this way:

"If, under the existing law, unreasonable rates must be imposed or unfair discrimination sanctioned, with the resulting chaos and other ill effects so graphically portrayed in the opinion of Mr. Commissioner Boyce, the remedy lies with the high court of parliament."

THE CHAIRMAN: That is right. Does the judgment not show that Commissioner Boyce, who had access to certain material, had found on that material just what he said there -- chaos.

MR. CARSON: I think so.

THE CHAIRMAN: The judge says if unreasonable rates must be imposed, but he refers to Commissioner Boyce.

MR. CARSON: He seems to recognize there would be chaos.

THE CHAIRMAN: I do not think the Supreme Court was asked to find whether or not there was a state of chaos, were they?

MR. CARSON: I do not suppose so.

THE CHAIRMAN: If I remember the case I think Commissioner Boyce did refer to certain material that was there as his authority for describing the situation as





chaotic, but that was not before the court. That is my recollection.

MR. CARSON: I rather took it --

THE CHAIRMAN: Anyhow, there it is; it is set out properly, of course, at page 156. He says:

"Whatever remedy, if any, it may in its discretion consider necessary or desirable can be speedily afforded."

Then as a result parliament was asked to do something.

MR. CARSON: Yes.

Q. Then, Mr. Jefferson, with reference to Part I, at pages 168 and 169, you have a graph at page 104 of the Appendix, and I think you were going to explain what that graph shows.

A. The graph at page 104 of the Appendix shows in detail the history of the rates on wheat from Regina to Fort William for a distance of 776 miles from prior to August, 1898, to date.

Q. Yes?

A. That is line 1 of the graph.

Q. Yes?

A. Line 1, Regina to Fort William -- actual.

Q. Those are the actual rates that have been in force as shown by the chart?

A. Yes, sir. Line 3 shows in detail the history of the rates on wheat from Whately, Montana, to Duluth for a distance of 772 miles from prior to August, 1898, to date. Lines 1 and 3 show in graphic form in detail the intimation contained in the table at page 89 of the Appendix.

Q. What does line 1 show with reference to changes in rates?



A. Line 1 shows that no change whatever has occurred in the rate from Regina to Fort William since July, 1922, at which time the rate was reduced 9 cents per 100 lbs.

Q. Yes?

A. Furthermore, the present rate of 20 cents was the rate established in 1899, the final reduction resulting from the Crows Nest Pass agreement, and is 3 cents below the rate prior to August, 1898.

Q. That is shown over on the left-hand side?

A. Yes, sir. Line 3 on the other hand shows the very substantial increase which has taken place from Whately to Duluth which was at a low point in 1932 of 34 cents and is now 55 cents, representing an increase of 21 cents or approximately 62 per cent.

Q. What does line 2 indicate?

A. Line 2 indicates what would have occurred to the rate from Regina to Fort William had not the Crows Nest rate of 1898 of 20 cents been restored in July, 1922, and had the August, 1922, general reduction and the 1948 general increase of 21 per cent, also the interim increase of 8 per cent in October, 1949, been applied to the December, 1921, rate of 29 cents, had this occurred the rate to-day would be 36 cents instead of 20 cents. Had this procedure been followed the rate of 36 cents from Regina to Fort William would now be 19 cents below the rate from Whately, Montana, to Duluth compared with the spread in December, 1921, of 11 cents.

Q. Yes?

A. The present rate from Regina to Fort William of 20 cents is 35 cents below the rate from Whately to Duluth of 55 cents.

Q. Mr. Jefferson, there is a table at page 169 of



Part 1 showing a comparison of revenue from grain and other traffic in western Canada in relation to service performed. Are there any matters respecting that table which you think should be emphasized?

A. Yes, sir. This table was prepared to show that the Crows Nest rates on grain and grain products in western Canada are now making a smaller contribution to railway revenue in proportion to the service performed than is obtained from other traffic. The relation to the ton miles and revenue for grain and grain products compared with all other traffic is most interesting.

Q. This table shows a comparison of the revenue per ton mile received from grain and other traffic in western Canada. Have you any comment to make on that?

A. It seems important to keep in view that the revenue per ton mile on grain and grain products in 1916 was 0.47 cents and in 1948, 0.55 cents, an increase of 0.08 or 17 per cent.

Q. That is .08 cents?

A. Yes, sir, or 17 per cent, while on all other traffic the revenue per ton mile in 1916 was 93 cents and in 1948 1.31 cents, an increase of 0.38 or 41 per cent.

Q. Yes?

A. I may say the increase in the revenue per ton mile on grain and grain products in 1948 compared with 1916 --

Q. That is the 0.08 cents?

A. Yes, sir -- is attributable to the increases which occurred in the intra Canadian rates on grain and grain products not subject to statutory limitations, and in the international rates on such commodities. The





point I wish to make is had not the intra Canadian and international rates on grain and grain products, which were not subject to statutory limitations, been higher in 1948 than in 1916 the revenue per ton mile on grain and grain products in 1948 would undoubtedly have been approximately the same as in 1916. Perhaps I may add there, Mr. Carson, that I said that neither the 21 per cent or interim 8 per cent increases applied to intra Canadian movements of grain and grain products in western Canada. That is correct, but the prior increases in rates, the 25 per cent increase and the 40 per cent increase in 1918 and 1920 did apply to intra Canadian rates in western Canada.

COMMISSIONER INNIS: Q. Have you any indication as to the implications of the depression on these figures? What would have happened in 1930, 1931 and 1932?

A. In the ton mile?

Q. Yes.

A. Well, ton mile earnings on grain and grain products in those years would not have changed.

Q. Volume would not make any difference?

A. Not the volume of grain and grain products, no, sir, because apart from the size of the crop the grain and grain products that do move are fairly well distributed all over the prairie provinces, and the ton mile earnings might go up and down a little bit, but it would be very slight.

Q. It would not make much difference?

A. No, sir.

MR. FRAWLEY: Q. Would Mr. Jefferson have this same information on a car mile basis?

A. On grain and grain products?



Q. The same information as you have on page 169 for the same years. You show revenue per ton mile in cents. Would you have the revenue per car mile?

A. No, sir.

Q. You did not do it that way?

A. We have not, so far as I know, any statistics that would enable us to do it. We have <sup>figures</sup> showing our car mile earnings on all traffic, but not our car mile earnings on different commodities.

Q. And that could not readily be obtained?

A. I would say it could not, no, sir. One reason would be that your grain and grain products traffic has transit arrangements, and you have rates into the mill and rates out. I do not think a figure would be obtainable at all.

MR. CARSON: Q. Mr. Covert was wondering how you got the revenue per car mile figures on Exhibit 163.

A. That is a mathematical computation for individual movements at given rates from and to a specific point on the basis of the average loading per car. You can determine that, but you cannot determine your car mile earnings for all movements of grain and grain products.

MR. CARSON: Does that answer your question, Mr. Covert.

MR. COVERT: Yes. I shall pursue it further later.

MR. FRAWLEY: Q. Mr. Jefferson, I am told you would only need the average loadings to turn it from ton mile into car mile?

A. But you would need your car miles.

Q. You would need the car miles?

A. Yes, sir, number of cars, car miles.



Q. Is that information not available?

A. Not by commodities that I know of.

Q. Well, what cannot be done cannot be done. I am instructed it would be very helpful and would throw some light on the table which you have on page 169 if we had it expressed in terms of car miles.

A. I do not think the figure is obtainable at all.

MR. CARSON: Q. When we were discussing the table on page 169 of Part I of the submission you pointed out that the revenue per ton mile on all grain and grain products in western Canada was .55 cents, and as I understand you that included grain traffic moving at rates other than the Crows Nest rates?

A. Yes, sir.

Q. Have you any estimate as to the present revenue per ton mile on grain traffic in western Canada which moves solely at Crows Nest rates?

(Page 15260 follows)





A. We have not any, I might say, precise figure.

Q. Yes?

A. In order to measure the extent to which the revenue of 0.55 cents per ton mile on grain traffic exceeds the revenue from traffic carried at Crows Nest Pass rates, a calculation was made by taking the rates at representative shipping points on each subdivision and calculating arithmetically the average of the revenue which would be derived from shipments from each of these points.

It is true that by using an arithmetical average, the result is not weighted to reflect the variation in volume from different points.

No one arithmetical average indicates that the revenue from the Crows Nest Pass grain is only 0.49 cents per ton mile.

Q. What have you to say as to the reasonableness of that? Is it a reasonable estimate?

A. I would, but, in saying so, I am of the opinion that it is conservative and too high rather than too low.

I make this statement in the belief that the heavier movement of grain is from points of longer distances with lower ton mileage than for the shorter distances with high ton mileage revenue.

The unweighted arithmetical average to which I have referred was determined by taking the first station and each additional station of 50 miles distance in each subdivision in the Prairie Provinces where grain and grain products originate.

Q. I take it from what you have said that you are of the definite opinion that the statutory rates on grain and flour from the Prairie Provinces to the head of the lakes and to Vancouver for export



are too low. Have you any further observations you desire to make on this subject?

A. Yes, sir. I am very strongly of the opinion that any rates today which are below the 1898 level are too low and not in proper relation to rates on other commodities which are on a much higher basis.

As far as I know, no one ever attacked western grain rates on the basis that the rates published pursuant to the Crows Nest Pass agreement were too high.

This, in itself, should be sufficient to prove that the rates are too low, having regard to the level of wages and cost of materials and supplies today, in comparison with such costs fifty years ago.

MR. MacPHERSON: I am afraid that we are getting into the question of compensatory rates.

MR. CARSON: I do not think so, Mr. MacPherson.

THE CHAIRMAN: I do not think so.

MR. CARSON: Q. Will you please read the summary beginning at page 188, as taken by the Canadian Pacific and as set out at that page of the submission?

A. "Summary - The submissions of Canadian Pacific Railway on this matter may be summarized briefly as follows:

1. In fairness and equity, these rates should be regulated in the same way and by the same tribunal as rates on other traffic.
2. The level of grain rates in Western Canada is less than half that for comparable movements of grain in the Western United States.
3. . . ."

MR. FRAWLEY: I do not think that paragraph 3 should be read, in view of the fact that the Commission has ruled that the company is not to be permitted to



prove it, Mr. Chairman.

THE CHAIRMAN: But it is in the record now. They simply allege they are not compensatory. They have always alleged that. I have been striking that out. As I have said, repeatedly, this is not a trial.

THE WITNESS:

"3. Under present conditions, the 'Crow's Nest' level of grain rates is not compensatory.

4. If, as a matter of national policy, the grain growing industry in Western Canada should at any time require to be subsidized, the subsidy should be paid directly to the industry by the Government of Canada out of general tax monies."

COMMISSIONER INNIS: Q. What sort of conditions do you have in mind?

A. What sort of --

Q. Conditions, under which a subsidy might be granted?

A. I have in mind over a depression period.

Q. In a depression period you would rather insist that the rates remain at the same level, and that the difficulty be made up by the Government?

A. Yes, sir. And again, you have a period, let us say, where some area would only get a partial crop, and they might need some assistance, whereas the farmer who had a good crop might not need any assistance.

Q. Do you think the railroad should be entitled to take the line that the rates should remain rigid?

A. I would not say that we should take the position that once a rate was established it should be rigid forever; no, sir. I do not think that the railways have never been found not to give consideration to any



all of the following conditions are met, it is:

best" large and medium sized, and the blonde

It is important to note that the above information is for informational purposes only and should not be used as a basis for investment decisions. The information is subject to change without notice.

1. 1914-1915

-- the first draft

under which a subsidy might be



very serious situation, no matter what the traffic is, if they feel they should give some measure of relief. We have never taken that attitude.

Q. Would you leave that entirely to the discretion of the railways?

A. Well, I would, yes, sir.

Q. You would not assume that the Board had any jurisdiction over that problem?

A. No, sir. I would feel that the railways were in a better position to determine what emergency relief was necessary, rather than the Board of Transport Commissioners, because I think the railways are more familiar with conditions all over the country. They are bound to be.

Q. But the opinion of the railways might not coincide with the opinion of the regions concerned?

A. That may be, yes, sir.

Q. Then it would mean that that opinion would have to be registered through Parliament; you would not admit of it having any influence on the Board, so there is only one other alternative?

A. I would not think it would be with Parliament, either. If such a situation arose, and the shippers thought their rates were too high, they could always appeal to the Board of Transport Commissioners to have the rates reviewed.

Q. Would you not have, in the case of a depression, the type of emergency which you have in mind, with, inevitably, the public expressing its views in Parliament politically, unless you have some idea of a much more effective board?

MR. CARSON: Q. Isn't that the situation which your submission No. 4 is designed to cover? I



mean your paragraph 4 on page 188?

A. Yes.

Q. "If, as a matter of national policy, the grain growing industry in Western Canada should at any time require to be subsidized, the subsidy should be paid directly to the industry by the Government of Canada out of general tax monies."

COMMISSIONER INNIS: Q. Yes; I was merely trying to find out what that meant.

A. I agree with that; unless the railways thought that they should make some change in the rates themselves.

MR. CARSON: That decision would involve Parliament making some decision in what is required.

THE CHAIRMAN: Governments do relieve afflicted areas such as Mr. Jefferson describes, in the way of seed grain advances and so on.

MR. CARSON: Q. What is the next paragraph?

A. No. 5.

Q. Yes?

A. "5. The price of grain in Western Canada has more than doubled since the present 'Crow's Nest' basis of rail freight rates was established. It is sound economics that these rates be permitted to find their proper level in accordance with changed conditions.

6. The Crow's Nest rates are a pure historical survival. They are not related either to the cost of service nor to the value of service. Changes which have occurred since they were introduced have made them totally obsolete and their effect upon the railways and upon the rates charged on other traffic makes it dangerous to



retain them."

Q. Have you anything further to add before we conclude this subject?

A. Yes, sir. The Canadian Pacific would not expect, nor would they ask for rates as high as obtain in the Western United States for the same or similar distances.

The Canadian Pacific is, however, strongly of the opinion that, in fairness to the shippers and receivers of all traffic, one class of traffic in one section of the country should not reasonably expect to receive preferred treatment at the expense of other classes of traffic.

In seeking the repeal of the provisions of the Railway Act respecting rates on grain and grain products in Western Canada, it does so in order that the Board of Transport Commissioners may have jurisdiction over all freight rates in Canada, without exception, and that a more equitable distribution of the transportation burden may be achieved.

Before fixing the rates on grain and grain products in Western Canada, Canadian Pacific would expect a most thorough and detailed study by the Board.

Q. Now, Mr. Jefferson, I am going to another subject.

COMMISSIONER ANGUS: Q. What would be the purpose of that study, the detailed study by the Board?

A. To determine what the rates on grain and grain products should be, not only in fairness to the rates on grain and grain products, but also in fairness to the rates on other traffic.

MR. CARSON: In the submission on page 189 there are two sentences which follow up, Dr. Angus, and they read:





"In developing the cost of handling grain in Western Canada Canadian Pacific has voluminous working papers. These can be made available to the Commission if desired, and, of course, would be available to the Board on any study that they may undertake."

In so far as making them available to the Commission is concerned, that has been ruled out. But that same study would be available to the Board.

(Page 15270 follows)



COMMISSIONER ANGUS: My understanding this morning was that the rate on grain which would replace the Crow's Nest Pass rate would be a special commodity rate. I think that was your point?

A. That is right.

Q. Is it usual in the case of rates of that type to have them preceded by a study by the Board in order to determine their level?

A. No, sir.

Q. That is why I asked, was there to be a study in this case?

A. No, I think I could answer that by saying that if we were free to ourselves to say what the rates on grain and grain products should be, we would change it, but we are not. We ask that the Act be changed and in changing the Act that the Board say what the rate should be.

Q. In the same way in which it says what other rates should be?

A. Yes.

Q. Does not that mean fixing the class rates rather than the special commodity rates?

A. Yes, but I don't think we would want the Board to set all our rates.

Q. No?

A. I don't think it would be a good thing. As I understand it all we are saying here, is that in view of the circumstances of the Crow's Nest Rates, if the Act is changed, that instead of the railways setting what the rate should be on grain



and grain products, let the Board settle the rate and then everybody would be satisfied. If we set the rate ourselves the public will complain that it is too high. The Board has got to do it in the end anyway, so they might as well set it first.

Q. I can see the point of that, but I am merely asking, are you saying the Board should do something in respect to these rates which it does not ordinarily do in respect of other rates?

A. We are, yes, sir.

MR. EVANS: I think I might point out, my lord, that the language - -

THE CHAIRMAN: The Board is now charged with the revision of the freight rates.

MR. EVANS: Yes.  
the

THE CHAIRMAN: But <sup>the</sup> statutory provision here is expressly excluded from their study.

MR. EVANS: Yes.

THE CHAIRMAN: That is, they have to prepare a structure which will not interfere with that. Do you want to say something?

MR. EVANS: I was just going to say in answer to Dr. Angus, that the language there is simply that we would expect it. I think it is only fair to say that having regard to the prominence given to this subject and having regard to the very large proportion of the total traffic represented by this commodity, we say we expect it rather than we ask the Board to do it. That is all we mean by that.

MR. FRAWLEY: Now, Mr. Chairman, if I may





say so with respect, Dr. Angus has raised an exceedingly important point, and I would like to know if the Canadian Pacific is asking, in addition to the deletion of these sections, another amendment to the Railway Act which would give the Board power with regard to special commodity rates which they have not now got; because my submission is that once these sections are taken out of Section 325, Mr. Jefferson is as free as the birds to fix a rate on grain the next day. There cannot be any question about that. He does not have to go to the Board. Now, my friend says this is very important traffic. Has the Act to be amended to give the Board a power with respect to this traffic that they have not got with respect to other traffic? I think we should know.

MR. EVANS: My friend is, if I may say so, tilting at the windmill, because quite obviously if the Board is free in regard to these rates, my friend, Mr. Frawley, and my friend, Mr. MacPherson, and my friend, Mr. Shepard, with all their people will descend on the Board in a cloud and ask for any class rate that they think is too high, to be reduced to some kind of proper commodity basis. That is why we say we fully expect that a matter of this importance will receive special study by the Board, and we are quite prepared to face that.

MR. FRAWLEY: Now we have got class rates brought into it. Mr. Jefferson told us this morning it would be a commodity mileage rate.

MR. EVANS: Mr. Frawley, are you trying to



be obstructive?

MR. FRAWLEY: Not at all, that is the record.

MR. EVANS: There was a suggestion that if the railways were free, there would be a class rate and they would be free to set a commodity rate or not as they choose; and I was simply meeting it, that if we did choose to do that sort of thing (which you apparently fear) there would be a cloud of people descending on the Board to have a special commodity rate fixed, and we would expect that.

MR. MacPHERSON: That is to say, so far as the railway is concerned, it would make the rate and would file it, and then if there was an objection by Mr. Frawley or anyone else they would appear before the Board and resist it. So far as the Act is concerned there is no suggestion of any amendment of the Act as it now exists.

THE CHAIRMAN: Is the trend of your statements, Mr. Frawley and Mr. MacPherson, this, that if any rate making is done according to the desires of the Canadian Pacific Railway, it should then be coupled with a provision that in this special case the Board should be the body to fix - -

MR. FRAWLEY: That is certainly my submission as I gather Mr. Jefferson is now saying to the Commission.

THE WITNESS: I did not say that.

MR. EVANS: If my friend would like to submit what might be a proper qualification, I would be glad to go into it and express an opinion.

MR. FRAWLEY: You make the qualification.



You have introduced it.

THE CHAIRMAN: Mr. Evans makes no qualification. He simply says, repeal any restrictions on the Board and leave its hands free as to rate.

MR. FRAWLEY: That is right, and that is all I want to emphasize.

THE CHAIRMAN: And if you do advise that any recommendation be made that this request for amendments be acceded to, it should be coupled with some provision that the Board itself would immediately then and there become - -

MR. FRAWLEY: No, I am not going that far, no sir. However, we will have to accept the <sup>and</sup> situation/if these are taken out of the statute we are in the hands of the railways, that is all.

MR. EVANS: Oh, no.

MR. FRAWLEY: That is absolutely right.

MR. EVANS: It is not.

MR. FRAWLEY: It is both right and true.

THE CHAIRMAN: I thought you were saying - what was your complaint then?

MR. FRAWLEY: I just wanted the record clear. I took it the railways were now saying that we put the Board into the fixing of this rate, and they are not in the fixing of other commodity rates, and if that is so, the statute will have to be amended, that is all.

MR. EVANS: Surely my friend has read Section 325 (1):- "The Board has power to disallow any rate and to fix a rate in lieu of that rate. "





THE CHAIRMAN: Yes, well, I guess Mr. Frawley knows that very well. The point is this, that if your amendments are granted, then you yourself would begin by fixing a rate.

MR. FRAWLEY: Certainly.

THE CHAIRMAN: And that those who would not like this new rate would then appeal to the Board about it. He says that would be the condition that would arise from a simple repeal of this provision, and that is so, there is no question about that. So I asked him, I thought perhaps from what he had said earlier, that the tenor <sup>of</sup> / his remarks / <sup>was</sup> that if these sections are to be repealed, then it should not be done without providing expressly that the Board should be the body to fix new rates and not the railways themselves; but apparently Mr. Frawley is not interested in that.

MR. FRAWLEY: That is quite right.

MR. EVANS: There is no difference in the way the Board would have power - -

COMMISSIONER ANGUS: If the railways themselves fix the rate, what is the meaning of the phrase:- "Before fixing the rates the Canadian Pacific would expect a most detailed study by the Board"?

MR. EVANS: I think it means we would have to simply face that a thing that has created as much interest as this question would be the subject of a hearing before the Board, before any new rate was fixed; and we fully expect that our friends would come down and perhaps have conferences with us and



there would be a whole lot of discussion preceding the putting in of a rate. In fact it takes place all the time in ordinary rate making practice; the industry is consulted and industry makes recommendations to the railways before the rate is put in. I am right in that am I not?

THE WITNESS: Yes, sir.

MR. FRAWLEY: My friend, Mr. Evans, is not very precise, because he refers me to Section 325: "The Board may disallow any tariff...". So first we have the tariff, which Mr. Jefferson and Mr. Evans would fix. Then he thinks we would not like it so we go to the Board and ask for it to be disallowed. That is so, but it has been their doing. It comes back to what I said, that the railways will fix this rate as they think fit and then it becomes the power of the Board to disallow it. That is quite a different matter.

THE CHAIRMAN: And power in the Parliament to amend.

MR. FRAWLEY: To amend the Railway Act, yes, and to give the Board in this particular case some special power.

MR. CARSON: But you are not asking that.

MR. FRAWLEY: No, I am not. I am just wanting to know what you ask for.

MR. CARSON: We are very clear.

MR. FRAWLEY: It is not very clear from page 89 if I may say so with respect.

COMMISSIONER ANGUS: I am afraid I am phrasing my questions very badly. At the outset of this discussion, I began by saying, that if certain



sections were repealed, would it still be something that could be argued before the Board when the background of these rates could be taken into account in determining what the future rates on grain products should be? My understanding is that the answer to that was no, that it would not be something that could be argued before the Board, and they would have to treat this rate in the same way as other rates.

MR. EVANS: Yes.

COMMISSIONER ANGUS: This seems to be to some extent a departure from that, that the Board would make a thorough study presumably with a view to giving effect to some of these principles.

MR. EVANS: Yes.

COMMISSIONER ANGUS: What would those principles be?

(Page 15279 follows)





MR. EVANS: Well, I think to begin with the value of service principle requires that they should pay at least out of pocket costs and some additional contribution.

Now, as I said, it might be the system on the part of the Board and on the part of my friends to see what the out of pocket costs were. And since we have this study I should think the Board would want to have the benefit of it. There are certainly other aspects they would want to look into. They might want to consider, for example, the illustration which Mr. Jefferson just mentioned as to whether in view of certain circumstances there should not be an export rate lower than a domestic rate or lower in Western Canada than in Eastern Canada. There are no such distinctions today. They might want to look into that. There are a lot of things that have to be studied and we are quite prepared that that study should be made.

COMMISSIONER ANGUS: Would that bring the Board at all closer to some sort of economic planning or is it suggested that it should?

MR. EVANS: No, I think not. It depends on how far they are going to study it. If they are going to study it from the standpoint of the historical background and the economic planning viewpoint without regard to the user principles of rate making, I would say yes, but we would expect the Board in the event that this legislation is passed, as we suggest it should be, to give consideration to the same principles in connection with rate making as it gives now in any other respect and those are quite adequate to take care of the necessity for a lower export rate. They do that all the time; it is a recognized practice.



THE CHAIRMAN: Do I understand this paragraph to mean then that you would have that study made exhaustively before any new rates are fixed?

A. MR. EVANS: We are quite prepared to have them studied in that way.

THE CHAIRMAN: You begin that way; you say " -- before fixing rates on grain and grain products --"

MR. EVANS: We are quite prepared to say that.

THE CHAIRMAN: Do you mean before the railways set to work to fix the rates or before that?

MR. EVANS: We are quite prepared -- I do not recommend it but we are quite prepared as these words indicate to have that done before we have a new rate set.

MR. FRAWLEY: Where is the legislation authorizing that procedure? I have been unable to find it.

THE CHAIRMAN: There is none now.

MR. FRAWLEY: No, none now.

THE CHAIRMAN: What would be required would be an Act of Parliament.

MR. EVANS: Except that that is one of the most usual practices in developing these commodity rates today.

THE CHAIRMAN: Do you wait until the Board enquires for you first?

MR. EVANS: No, sir.

THE CHAIRMAN: But here you are saying that you would. You say : "Before fixing the rates on grain and grain products" which I take to mean the new rates that would take the place of these Crow's Nest Pass rates.



MR. EVANS: I am sorry to be at cross-purposes.

THE CHAIRMAN: Oh, I think I can read this on its very working without entering into any cross-purposes. You do say "Before fixing the rates on grain and grain products in Western Canada the Canadian Pacific would expect a most thorough and detailed study by the Board." Isn't that simple?

MR. EVANS: Quite simple; I am having no difficulty with that but what I started to say was that my friend Mr. Frawley seems to think that the railways would put in a tariff without consulting anybody. Now, all I am saying is that the usual practice in fixing commodity rates is that industry consults with the railways before they have any rates at all. Now, as I have said, we fully expect and we are quite prepared to face a study by the Board to find the level of those rates.

THE CHAIRMAN: And to be completed before you would fix your rates?

MR. EVANS: Yes, sir.

THE CHAIRMAN: Well, as Mr. Frawley says there is no compelling legislation now, it would have to be new legislation.

MR. EVANS: What I am saying to my friend Mr. Frawley is what other guarantee of good faith do they want, because if we did not do it that way, we would have to face an enquiry, we would have to face complaints and my friends would certainly not be backward in bringing forward complaints.

MR. FRAWLEY: I just wanted to know what the Canadian Pacific's position is when these statutes are struck out?

THE WITNESS: We do not need any new legislation, Mr. Frawley.





THE CHAIRMAN: I think I understand the position. I think the railway realizes that if their amendments are granted, then these rates are thrown into the same position as other rates and the railways could fix them, but that they will not fix them in this case, or rather, they would ask the Board before they fix the rates to have a complete study made to see what the rates ought to be, and they have material on hand which they are prepared to make available to the Board to effect this study. Is that your attitude? Have I properly set out your point?

MR. EVANS: I think so.

THE CHAIRMAN: I just want to make sure I am not being mistaken, that is to say, that if the amendments you asked for are granted, then these rates do fall into the position that Mr. Frawley describes but that in this case in view of their importance, the railway would not fix new rates until the Board had been given an opportunity to make a study of the situation and to see what these new rates ought to be, and that the material which you say you have on hand which would assist the Board you are willing that they should have. You say in the case of carrying grain in Western Canada the Canadian Pacific have voluminous work papers and these would be made available?

MR. EVANS: May I ask Mr. Jefferson as a matter of policy whether he wants me to agree to that? If he wants an agreement I want to have a word with him and then I will tell your Lordship. (Consults with Mr. Jefferson) I can say that we will agree to that as a qualification.

MR. FRAWLEY: And we will have the Act amended accordingly then? There is no place for the Board to undertake this preliminary study at all.

MR. EVANS: That is nonsense.



MR. FRAWLEY: It is not nonsense; it is simple legislation.

COMMISSIONER INNIS: I was wondering if Mr. Evans had been pushed a little further than his word "expect"?

MR. EVANS: I have been. We are quite prepared to have that made a condition.

THE CHAIRMAN: Do you mean by legislation, if necessary?

MR. EVANS: I think, so, yes.

COMMISSIONER INNIS: Assuming that is the case, as a hypothetical illustration, do you think you would get agreement on whatever rate investigation was made on the rates?

MR. EVANS: If I had to wait to get agreement from my friends I could not give such an undertaking. But I am quite prepared to leave it to the Board and they will make a study and fix the rates on the ordinary principles of rate making.

COMMISSIONER INNIS: Do you think the provinces would be content to receive the decisions of the Board or would there be an appeal immediately to Parliament or, if not to Parliament, to the Supreme Court? "

MR. EVANS: You mean my friends' appeal?

COMMISSIONER INNIS: Yes.

MR. EVANS: They may do; they are very difficult to keep down. They may not be satisfied with it. I am merely saying that we would be agreeable to it and I cannot speak for my friends. The only reason we would want to take an appeal was if there was some legal principle misapplied and we would want to have that straightened out.



COMMISSIONER INNIS: But in the final analysis there would be a resort to this principle of appealing to the Governor in Council and to Parliament?

MR. EVANS: I should hope that perhaps by that time my friends would be --

MR. FRAWLEY: Beaten down.

MR. EVANS: Would be satisfied with the whole thing.

MR. CARSON: I hope by that time, sir, that 52.1 is repealed.

Now, I want to come to another subject and that is mail and that is dealt with in Part I of the Submission at Page 189 and 196, and then it is also dealt with in Paragraph 82 of the outlined submissions. When I say "mail", Mr. Jefferson, I have just used the word labelled to Paragraph 82 of the outline submission which covers mail. Perhaps I should just read 82:

"Canadian Pacific submits that a recommendation should be made that Section 351 of the Railway Act should be amended so that the rates to be charged for the movement of His Majesty's mail, His Majesty's Naval or Military forces or Militia and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables, or others travelling on His Majesty's service, shall be brought within the jurisdiction of the Board of Transport Commissioners. An appropriate amendment should also be recommended to Section 80 of the Post Office Act."

My lord, I want to substitute, if I may, a paragraph for the first paragraph on Page 190 and I have not got it written out except in my own copy and if I can read it into the record I think it is very clear





what it is designed to do. The previous paragraph which will be struck out commences with "Canadian Pacific submits --" down to the end of "Board of Transport Commissioners for Canada", that is seven lines, and it will now read this way:

"Canadian Pacific submits that a recommendation should be made that Section 351 of the Railway Act and Section 80 of the Post Office Act be amended by adding at the end of each section the words: ' save that the terms and conditions as to compensation to be paid to the Company shall be such as may be determined from time to time by the Board of Transport Commissioners for Canada'".

Now then, would you indicate in your own way, Mr. Jefferson, what lies behind this recommendation. I think you think it should be discussed in two parts?

A. Yes, sir, I think this subject should be discussed in two parts: first, a recommendation that Section 351 of the Railway Act and Section 80 of the Post Office Act should be amended in a manner that will give the Board of Transport Commissioners jurisdiction over the rates charged for the carriage of His Majesty's mail; second, a recommendation that Section 351 of the Railway Act should be amended in a manner that will give the Board of Transport Commissioners jurisdiction over the rates charged for the movement of His Majesty's naval or military forces or militia and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables or others travelling on His Majesty's service.

Q. I am just going to pause, a minute, Mr. Jefferson, to read Section 351 and Section 80 as they appear at Page 190 and then indicate how this qualification



will fit into them.

A. Yes, sir.

Q. 351 reads:

"His Majesty's Mail, His Majesty's naval or military forces or militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables, or others travelling on His Majesty's Service shall, at all times when required by the Postmaster General of Canada, the Minister or Deputy Minister of National Defence, or any person having the superintendence and command of any police force, respectively, be carried on the railway, and with the whole resources of the Company if required, on such terms and conditions and under such regulations as the Governor-in-Council makes.

Now, we propose to add to that these words:

"save that the terms and conditions as to compensation to be paid to the Company shall be such as may be determined from time to time by the Board of Transport Commissioners for Canada."

The purpose of the amendment which will be apparent is simply to lift over to the Board the jurisdiction over the compensation.

COMMISSIONER INNIS: Does the Canadian National agree on this? I have forgotten.

MR. HART: Yes, you will find a statement along the same lines as this in the Canadian National brief.

MR. CARSON: Then, Section 80 of the Post Office Act reads:



"Canada mail and persons travelling therewith on postal service, or any duly accredited official of the Post Office Department of Canada, shall, at all times when thereunto required by the Postmaster General, be carried on any steamship or steamboat navigating the waters of Canada and on any railways in Canada, and with the whole resources of the railway company, if required, on such terms and conditions and under such regulations as are made by the Governor in Council."

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Then we propose to add to that:

"Save that the terms and conditions as to compensation to be paid to the company shall be such as may be determined from time to time by the Board of Transport Commissioners for Canada."

It is the same qualification as in the case of the other section.

Q. Now then, Mr. Jefferson, have you a statement showing the rates charged for the carriage of mail in Canada?

A. Yes, sir.

MR. CARSON: That will be Exhibit No. 168.

EXHIBIT NO. 168 -- Statement showing rates for carriage of mail in Canada.

Q. Would you just go on to describe just what it shows?

A. This statement shows the rates charged for the carriage of mail in Canada as made effective by order in council P. C. 211, February 1st, 1914, as made effective by order in council P. C. 379, March 1st, 1921, as made effective by order in council P. C. 1896, June 1st, 1922, and as proposed by the railways, November 29th, 1948, supported by a further submission of May 3rd, 1949.

Q. Would you explain the exhibit?

A. The exhibit shows there was an increase made in the rates for the carriage of mail effective March 1st, 1921, by authority of order in council P. C. 379.

Q. Can you say what procedure was followed in obtaining that increase?

A. Early in 1917 the railways made representations to the Postmaster General requesting an increase in rates. The application was referred to



the Board of Railway Commissioners by order in council P. C. 617 of March 7th, 1917. The Board investigated the matter and submitted a report to the governor in council on July 5th, 1919. The recommendation of the Board was not made effective until March 1st, 1921, or one year and eight months after the recommendation of the Board had been received. Furthermore, when the Board's recommendation was implemented by the Postmaster General it was not made retroactive to the date of the application in 1917 or the date of the Board's recommendation, July 5th, 1919.

Q. What was the procedure in the case of the rates that were made effective by order in council P.C. 1896 on June 1st, 1922?

A. These rates were made effective on the basis of a recommendation of Mr. R. A. C. Henry of the Department of Railways and Canals who had been assigned to the task of investigating the railway mail pay rates by mutual agreement between the railways and the Post Office Department.

Q. Mr. Jefferson, before we leave the exhibit, is there anything you wanted to explain about it, or is it clear on the face of it?

A. Well, the exhibit shows --

Q. You have given us the dates at the head of the four columns?

A. Pardon?

Q. You have given us the dates at the top of the four columns and the numbers of the orders in council?

A. This exhibit shows the rates charged for the carriage of mail for the different kinds of service shown in the exhibit. That is, it shows the rates per car



mile for 60-ft. and 30-ft. postal cars, for a 60-ft. storage car, then for baggage car space of 30 Ft. units, 15 ft. units, 7 ft. units and 3 ft. units. Then the lower part of the exhibit shows the charges for special mail trains. I might also say that there was very little change, if any, in the rates made effective on June 1st, 1922, under order in council P.C. 1896 in comparison with the rates which were made effective on March 1st, 1921, under order in council P.C. 379.

Q. Now, I gather from this exhibit that the current mail rates have been in effect since June 1st, 1922?

A. That is right.

Q. Without any increase?

A. Without any increase, yes, sir.

Q. Have you made any effort to have mail pay rates increased between June 1st, 1922, and the railways' application of November 29, 1948?

A. Yes, sir.

Q. That is the pending application, the one dated November 29, 1948? Am I right about that? The application of November 29, 1948, is still pending?

A. That is right.

Q. I wanted to know if there had been any effort between 1922 and that date?

A. The railways made an application for an increase in rates under date of September 9th, 1929, and that application is contained on page 117 of the Appendix to Part I.

Q. That is a letter from the general secretary of the Railway Association of Canada to the Honourable P. J. Veniot, Postmaster General of Canada, dated the 9th of September, 1929?

A. Yes, sir.





Q. I shall not take the time to read that letter, but what was the result of that application?

A. There were protracted negotiations and an agreement by the Postmaster General at that time under date of December 18, 1930, to recommend to the governor in council the appointment of a committee of arbitration to consider the question of costs and submit a report. The railways were never able to have this arbitration proceeded with.

Q. I think you told me there had been no increase since June 1st, 1922?

A. Yes, sir.

Q. And the pending application took the form of a letter that is set out at page 118 of the Appendix to Part I. That is a letter dated November 29th, 1948?

A. Yes, sir.

Q. What is the status of the present negotiations with the Postmaster General's department for an increase in mail pay rates?

A. The present application made by the railways on November 29th, 1948, was considered by the Postmaster General, and after protracted correspondence and discussions the Postmaster General wrote to the Chief Commissioner of the Board of Transport Commissioners on August 15, 1949, requesting the assistance of the Board in endeavouring to reach common ground with the railways.

Q. I think I will ask you to read that letter, if you will, Mr. Jefferson. I do not think it is necessary to file it as an exhibit.

COMMISSIONER INNIS: That is not the same as the 9th of September letter?

MR. CARSON: This is August 15th, 1949. The other was 1929.

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THE CHAIRMAN: 1929?

MR. CARSON: Yes. I asked Mr. Jefferson whether they had made any effort between 1922 and this pending application in 1948 and he said yes, we made an application for an increase in rates under date of September 9, 1929, and that is the letter that is set out at page 117 of the Appendix to Part I. That is the 1929 application.

COMMISSIONER INNIS: That is on the 9th of September?

MR. CARSON: 1929.

COMMISSIONER INNIS: The same date as given on page 193 for the other in 1949?

THE CHAIRMAN: On page 193 you refer to a letter dated the 9th of September, 1949.

THE WITNESS: That is another letter entirely.

THE CHAIRMAN: Exactly twenty years apart.

THE WITNESS: Yes, sir.

MR. CARSON: Plus one day.

THE CHAIRMAN: No, the 9th of September.

MR. FRAWLEY: Every twenty years they try to get a little more money.

MR. CARSON: Oh yes, your lordship is quite right.

THE WITNESS: It is the same date but a different year.

THE CHAIRMAN: You have not set out in the book the first letter of 1929?

MR. CARSON: Yes, we have; it is in the Appendix at page 117.

THE CHAIRMAN: What is that letter?

MR. CARSON: In the letter of August 15, 1949 --

THE CHAIRMAN: We are interested in the one of 1929.



MR. CARSON: I think it would not be wasting time to read that letter, if I may. It reads:

"The Railway Association of Canada, on behalf of member railways, has been giving thought to the question of remuneration received from the Canadian Government for the carriage of mails. Preliminary figures that have been taken out by the two major railways -- the Canadian National Railways and the Canadian National Railway -- indicate a very considerable deficiency in revenues to meet expenses. For instance, on the Canadian Pacific Railway these figures indicate a deficiency of 11.34¢ per car mile, while on the Canadian National Railways the deficiency is approximately 16.11¢ per car mile. On the ground that the revenue from each service rendered by the railways should at least meet the expenses involved and provide for some proper return on the investment, it appears desirable from a railway point of view that the rates and conditions under which the mails are now carried by the Canadian Railways should be reviewed, with the object of revision. We therefore respectfully request that the matter be given consideration by yourself, to the end that the subject be dealt with by such body as you desire reached, if possible, for such increase in rates as may more nearly compensate the railways for the service now being performed."

In reference to that, Mr. Jefferson said there were protracted negotiations and an agreement was made with the Postmaster General under date of December 18, 1930,





to recommend to the governor in council the appointment of a committee of arbitration to consider this matter and to submit a report, but he says the railways were never able to get that arbitration proceeded with.

That was the 1929 situation, Mr. Jefferson?

THE WITNESS: Yes, sir.

MR. CARSON: Then I asked you about the present application that was launched on November 29, 1948, by means of the letter that is set out at page 118 of the Appendix.

THE CHAIRMAN: In the meantime between these two applications, the one in 1929 and the one in 1948, was anything done at all towards changing the rates or have they remained the same?

MR. CARSON: Q. The Chairman would like to know whether between what started in 1929 by that September letter and your application on November 29, 1948, anything was done to change the rates, any application made, or what was happening in that interval?

A. My understanding is that there was not any application to the Postmaster General for an increase in mail rates between 1929 and 1949.

THE CHAIRMAN: Q. Was any change in fact made in the rates, or did they remain the same during those twenty years?

A. They remained the same; they have not been changed.

Q. And they are the same to-day?

A. Yes, as they were in 1922.

MR. CARSON: 1922, as shown on Exhibit 168.

---Recess.



---Upon resuming: - 15295 - Mr. Jefferson, in ch

MR. CARSON: Q. Mr. Jefferson, you told the Commission that since this application was submitted by a letter of November 29, 1948, there had been protracted correspondence and discussions, and that the Postmaster General wrote to the Chief Commissioner on August 15, 1949, requesting the assistance of the Board in an endeavour to reach common ground with the railways. I would like you to read the letter dated August 15, 1949.

A. I read:

"15th August, 1949.

The Chief Commissioner,  
Board of Transport Commissioners for Canada,  
Ottawa, Ontario.

Dear Sir: Attention of Mr. Armand Sylvestre, K.C.

Representations have been made by the Railway Association of Canada for an increase in the rates payable to the railway companies for the transportation of mail.

These representations have been studied by the Deputy Minister in conjunction with the departmental officials, and several meetings have been held between the representatives of the railways and officers of the Department.

The Department's views do not coincide with those of the railway companies, and consequently it was agreed at the last joint meeting to seek the assistance of the Board of Transport Commissioners in an endeavour to reach common ground.

I very much appreciate your willingness to undertake this review, and I am enclosing a brief giving both sides of the case as we see it. A copy of this letter and the brief is being forwarded to Mr. J. A. Brass, General Secretary of the Railway Association of Canada, for his

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information.

No doubt you will wish to obtain data from both the departmental officials and from the representatives of the Railway Association. Needless to say, the appropriate officials of the Department will be available when required, and I am sure that the railway companies will be glad to do likewise.

The Railway Association attaches a great deal of importance to the urgency of this case and, therefore, I would ask that the subject be given the consideration of the Board at the earliest possible moment, and I shall be very glad indeed to be advised of your findings.

Yours truly,

(Sgd.) Ernest Bertrand,

Postmaster General."

Q. In the middle of the letter which you have just read, Mr. Jefferson, the Postmaster said:

". . . I am enclosing a brief giving both sides of the case as we see it."

You did not write that brief, or your side of it?

A. I did not, personally.

Q. I take it that it was a brief which was prepared in the Postmaster General's Department, putting both sides of the case as they saw it?

A. I understand that the Postmaster General sent to the Chief Commissioner of the Board of Transport Commissioners the submission which the railways made to the Postmaster General, as well as the views of the Postmaster General's Department.

THE CHAIRMAN: Does the letter make it clear just what the Postmaster General wanted the Commission





to do?

MR. CARSON: Well, he asked them for their assistance in an endeavour to reach common ground. This was merely a matter of arrangement. There was no statute or procedure under which it was being done.

MR. CARSON: Q. That is right, is it not, Mr. Jefferson?

A. That is right, yes, sir.

Q. Now then, what happened next?

A. Upon inquiry --

THE CHAIRMAN: Q. Pardon me. Was that letter written having regard to the application by the Railway Association for a change in the law?

MR. CARSON: No. This was long before there was any proposal for a change in the law.

THE WITNESS: This was merely an application for an increase in the charges for the carriage of mail.

THE CHAIRMAN: Q. The Postmaster General, in the final result, had the say in the fixing of the rates?

A. That is right.

Q. But he must have wanted the Commission to help him in arriving at the rates?

MR. CARSON: Your lordship will appreciate that under the legislation as it now stands the Governor in Council fixes those rates.

THE CHAIRMAN: That is right. I just wanted to make sure what the Minister intended the Commission to do when he wrote to them. Apparently he wanted a suggestion from them as to what the proper rates might be.

MR. CARSON: Q. Mr. Jefferson says that in the next letter which he will read the position is clarified somewhat. You say the Minister wrote again



to the Chief Commissioner?

A. Yes, sir.

Q. On September 9, 1949?

A. Yes. And I would like to say first that, upon inquiry by the railways as to whether the Board's investigation would be made under an Order in Council, the Minister again wrote to the Chief Commissioner on September 9, 1949, stating that this was not the intention.

Q. Yes. Now, would you read that letter in full, because I think that only part of it is in the brief?

A. Yes, sir. I read as follows:

"9th September, 1949.

The Honourable Mr. Justice M. B. Archibald,  
Chief Commissioner,  
Board of Transport Commissioners for Canada,  
Union Station Building,  
Ottawa, Ontario.

Dear Mr. Justice Archibald:

On the 15th of August my predecessor, the Honourable Ernest Bertrand, wrote you in regard to an increase in the rates payable to the Railway Companies for the transportation of mail.

In clarification of the Department's request, might I say that it was not the intention to ask the Board of Transport Commissioners to give a formal opinion as to the merits or otherwise of the request made by the Railway Association of Canada, but simply that the Board loan the services of its experts to study the factors and data on which the Railways base their claims for increased pay and give us the benefit of their experience and advice.

The matter has been discussed on several



occasions by the representatives of the Railways and officials of the Department, but we have been unable to reach common ground.

Naturally, the officials of my Department are not intimately versed in the complexities of the factors governing railway rates and, therefore, I feel sure that the assistance and advice of your experts would be of great help in our endeavour to arrive at a common understanding on which I could base a recommendation to my colleagues.

Yours sincerely,

(Sgd.) G. Edouard Rinfret,  
Postmaster General."

COMMISSIONER INNIS: Had there been a change in ministers between those two letters?

MR. CARSON: Yes. The Honourable Mr. Rinfret succeeded the Honourable Mr. Bertrand.

MR. CARSON: Q. Then, have you got another letter to read in this series of correspondence, Mr. Jefferson?

A. Yes, sir. I would like to read a letter which the Railway Association of Canada received from the Postmaster General, written under date of Ottawa, January 16, --

COMMISSIONER INNIS: Of this year?

MR. CARSON: Yes, 1950.

THE WITNESS: This letter was dated January 16, 1950, and is addressed to Mr. J.A. Brass, General Secretary of the Railway Association of Canada, and it is signed by the Postmaster General. It reads:

"I have your letter of January 4th asking what progress has been made in the application of your Association for a 55% increase in the





current rate of payments for mail conveyance.

As you know, at the request of your Association, this application was submitted to the Board of Transport Commissioners but, as yet, we have had no official word on the subject. I take it, however, that the Board has been fully occupied with the freight rate enquiry which, as a result of action by the Canadian Pacific Railway, is still a most active question for reconsideration by the Board. There is too, the possibility that the Board shares our view that the Post Office rate application cannot be divorced from the action taken in the freight rates and they may well consider, therefore, that the more important application, namely, the one on the freight rates question, should be finally disposed of before they offer any opinion on the application for an increase in mail conveyance rates.

Like you, we would like to see this matter brought to a final conclusion without undue delay, but we are not in any position to criticize the Board of Transport Commissioners for tardiness because of our appreciation of the difficult problems now before them. I would suggest, therefore, that we will have to be patient until such time as the freight rates question is finally disposed of."

MR. CARSON: Q. I did not want to read all the correspondence about this, because I thought it would take too much time, but there is an extract from an earlier letter quoted on page 193, dated the 10th of September, 1949. But I do not think it adds very much to what we already have.

... ..

Now then, you have read the letter of the 16th of January. What has happened since then?

A. Inquiries have been made of the Board of Transport Commissioners and the Postmaster General's Department with regard to the present status of this subject.

The Board advises that the Postmaster General's Department are not waiting for an official report from any of its officers. The Board also states that its officers have made a verbal report to the Postmaster General's Department; and that no further report from them is to be made unless and until they again receive a request from the Postmaster General's Department for additional information or advice.

THE CHAIRMAN: What are you reading from?

MR. CARSON: This is something which happened long since the brief was prepared.

THE CHAIRMAN: That is what I thought.

MR. CARSON: Q. I understood you to say: We went to the Board to see what the status was, and we went to the Postmaster General with regard to the present status.

THE CHAIRMAN: Q. What did you read?

A. It was just a statement which I prepared myself from notes which I had made.

Q. It sounded like a letter.

A. Might I add that only last evening I saw the Deputy Minister of the Postmaster General's Department. He said that he was going to address a letter to the Board of Transport Commissioners today insisting upon a formal report from the Board's experts.

Q. That is, a report in writing?

A. I beg your pardon?



Q. He wants a report in writing?

A. A report in writing, yes, sir.

COMMISSIONER INNIS: That brings us up to date?

MR. CARSON: Yes.

MR. CARSON: Q. Now then, to summarize: What are the reasons which cause you to propose an amendment to transfer jurisdiction over mail rates to the Board of Transport Commissioners?

A. I might name three principal reasons:

First, as I have stated, our experience in the past has been that there are almost interminable delays in obtaining consideration and disposal of our applications.

Secondly, as the Postmaster General himself has stated in his letters, quoted on page 193 of Part I of our submission, his Department is not experienced in dealing with the factors governing railway rates. It is evident that he must, in any event, call for our outside assistance.

In the third place, it would seem desirable that the Board of Transport Commissioners should have jurisdiction over the rates charged for the carriage of mail, just as it has jurisdiction over the freight rates and other rates, so that there should be a proper balance maintained. This would avoid an increase in the burden upon the shippers and consignees of freight.





MR. CARSON: Q. Well, what sort of a position are you in now under the present form?

A. Well, at the present time, we are in what I might say is just a dilemma. We just seem to be going around in circles and cannot get a decision from anyone.

MR. FRAWLEY: But you are going to get a letter written today.

MR. CARSON: There have been lots of letters written.

THE CHAIRMAN: It is very easy to write a letter, Mr. Frawley.

MR. CARSON: Q. Now, Mr. Jefferson, I want to ask you something about mail rates in the United States. I understand that in the United States the Interstate Commerce Commission has jurisdiction over the rates charged for the carriage of mails. Is that right?

A. Yes, sir. This came about as a result of an Act of Congress dated July 28, 1916, which is quoted at page 194 of Part I of our submission.

Q. I don't think I need read that. The Commission will have that before them at page 194, but I would ask you, under what section of the Interstate Commerce Act is such jurisdiction now conferred on the Interstate Commerce Commission?

A. Section 321 of the Transportation Act of 1940.

Q. Yes, have you a statement showing rates charged for the carriage of mails in the United States?

A. Yes, sir.

Q. That will be Exhibit 169.



. . . EXHIBIT 169 ...filed by Mr. Carson  
Statement showing rates charged  
for carriage of mails in the  
United States.

Q. What does this statement show, Mr. Jefferson?

A. This statement shows the rates charged for the carriage of mail in the United States as made effective on different dates from November 1916 to February 1947 and as proposed in applications now before the Interstate Commerce Commission.

Q. Now, what increase has been granted the United States railroads for the carriage of mails since 1922 when the present Canadian mail pay rates were made effective?

A. The United States railroads were granted a 15% increase in May 1925.

Q. Yes.

A. They have now applied for a 95% increase, upon which they have received a 25% interim increase which has been made retroactive to 1947.

THE CHAIRMAN: Where does that appear on the Exhibit?

MR. CARSON: Well, the exhibit shows, my lord - first I want to ask Mr. Jefferson about this.

Q. In the third column when you speak about 15% increase that was affective from May 1925, that was authorized in July 1928 but was made retroactive to May 1925? That is the 15% increase?

A. Yes.

THE CHAIRMAN: Is that set out on the exhibit?

MR. CARSON: That is set out on the exhibit.



THE CHAIRMAN: What I did not find set out is this interim amount.

MR. CARSON: Q. What his lordship is asking about is this. You have just told the Commission that the United States railroads have now applied for a 95% increase, upon which they have received a 25% interim increase which has been made retro-active to February 1947?

A. Yes sir.

Q. And his lordship was asking where that is set out?

A. The 25% interim increase is set out in the column headed "February 1947, Current Rates".

THE CHAIRMAN: That includes the 25% increase?

A. Yes, sir.

MR. CARSON: Q. That is on account of or interim in respect of the 95% application?

A. Yes, sir, and the 95% increase as proposed is over the rates in effect prior to February 1947, that is, the 95% over the column "August 1928 to February 1947".

Q. Yes, then you show in the last column what that proposed 95% increase would amount to in respect of these various services?

A. That is right.

Q. Now, what does the overall increase in the United States amount to from 1922 down to the present time including this 25% interim increase?

A. The overall increase since 1922 amounts to at the present time to approximately 44%.

Q. Yes, as compared to your nothing.





A. That is right.

Q. Now, are the rates charged for the carriage of mails in the United States comparable to those charged in Canada?

A. Well, the rates charged in both countries are on a space system basis.

THE CHAIRMAN: On a what system?

MR. CARSON: A space system basis.

THE WITNESS: A space system basis. They are not altogether comparable in that in Canada employees of the railways do not load and unload mail cars to the same extent as in the United States. The Canadian railways would expect to have this difference reflected in the rates.

Q. Now, will you tell the Commission the purpose of the Exhibit 169 showing the mail rates in the United States, Mr. Jefferson?

A. Well, the purpose of this exhibit was to indicate the complete consideration and disposition given to applications for adjustments in mail rates when they are dealt with by a tribunal experienced in such matters and impartial in its approach. In addition interim increases are sometimes given in the United States when they are needed. In Canada on the other hand, one of our applications made in 1929 was never disposed of.

COMMISSIONER INNIS: Would you expect the same system to operate as in the case of international joint rates if it were placed under the Board? That is to say, when the American I.C.C. raises the rates, would you expect, if this were placed under the Board,



that those rates would apply to portions in Canada which are linked up with the United States.

MR. CARSON: The first question involved in that, I would suppose is: is there an international through rate in respect of mail as there is in the case of freight? I understand there is not.

COMMISSIONER INNIS: But if it were placed <sup>you</sup> under the Board, would/expect there would be?

A. I don't know. Mr. Allison tells me that in the handling of international mails the Dominion Government pays the charges to and from the Canadian border within Canada, and the United States government pays the charges to and from the border within the United States.

Q. Yes, I can understand that. That is inevitable because they are under different jurisdictions.

A. Yes, sir.

Q. But if it were placed under the Board - -

A. I would not think it would alter the situation at all.

Q. You have not in mind any possibility?

A. No, sir.

MR. CARSON:

. But you do not have this agreement as you do in the case of international freight rates?

A. Freight rates.

THE CHAIRMAN: Did I understand you to say just now, that in the United States the handling, the loading and unloading of the mail is done by the railway employees, whereas in Canada it is done by very few of the employees?

MR. CARSON: Well, I think generally that



is so, that the railway employees do not load and unload to the same extent as in the United States.

THE WITNESS: That is right.

MR. CARSON: And he said he would expect to have that difference reflected in the rates.

THE CHAIRMAN: Yes, I just wanted to make sure.

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Q. Now then, Mr. Jefferson, coming to the subject of His Majesty's forces and stores,\* what have you to say with respect to rates charged for the movement of His Majesty's naval or military forces or militia, all policemen, constables or others that travel on His Majesty's service?

A. The rates at present in effect are in conformity with the authority contained in Orders in Council, P.C. 76/4055, P.C. 160/4055 and P.C. 162/4055, issued under date of September 10, 1948, effective October 1, 1948.

Q. And those are Orders in Council that are issued, I take it, under authority of Section 351 of the Railway Act?

A. Yes, sir.

Q. Now, what have you to say with respect to the rates charged for the movement of artillery, ammunition, provisions or other stores for the use of His Majesty's naval, or military forces or militia?

A. The Canadian Pacific Railway with the approval of the appropriate departments of the Government publish fourth class rates for the movement of artillery, ammunition, provisions or other stores for the use of His Majesty's naval or military forces or militia. These rates fluctuate up or down as the class rates change and authority is not needed from the Government for each change. To all intents and purposes these rates are already under the jurisdiction of the Board of Transport Commission<sup>ers</sup>, and in my view, they should be placed there by statute.

Q. Now, I come to another subject, Mr. Jefferson, and that is horizontal or flat percentage increases in freight rates which are dealt with in Part II of the



Canadian Pacific Submission, Pages 55 to 63 and commencing at Page 55, <sup>where</sup> reference is made to this subject of horizontal or flat percentage increases in freight rates. What have you to say about that?

A. I would like to read pages 55, 56, and the first three lines at the top of Page 57.

THE CHAIRMAN: We are on Volume II, are we not?

MR. CARSON: We are on Volume II, Page 55. All right, Mr. Jefferson.

A. HORIZONTAL OR FLAT PERCENTAGE INCREASES IN FREIGHT RATES.

This is a subject upon which a very great deal has been said during the regional hearings of your Commission and during the many hearings before the Board of Transport Commissioners in recent rate cases. It is alleged that such increases disturb existing rate relationships and that they have a more serious impact upon those producers who must compete with other producers closer to the common markets. It is argued that if general increases are necessary, they ought to be made by applying flat increases in cents per hundred pounds or percentage increases with maxima fixed in cents per hundred pounds and that these maxima are particularly necessary in the case of certain basic commodities.

The principal argument in support of the case against flat percentage increases has been based on simple arithmetical calculations to demonstrate that a given percentage of a higher of two rates yields a greater number of cents per hundred pounds by way of increase than the same percentage applied to the lower rate. It is said that this disturbs existing relationships because such relationships are already established



by the differential in existing rates in cents per hundred pounds.

The argument proceeds to point out the large number of exceptions to flat percentage increases which have been ordered by the Interstate Commerce Commission in its judgments in recent years in general increase cases. Reference has frequently also been made to the opinion of the Duncan Commission on the subject.

It is true that there have been a number of exceptions in the application of percentage increases in the United States. It is also true that the flat percentage increase results in increases greater in cents per hundred pounds in the case of the more distant shipper than in the case of the shipper closer to the market.

THE CHAIRMAN: I think this is a good place to adjourn.

---At 4:40 p.m. the Commission adjourned until tomorrow, Wednesday, February 15, 1950, at 10:30 o'clock a.m.













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